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THE GOVERNMENT  
OF IOWA  
AND THE  
UNITED STATES  

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MEYERHOLZ



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THE STATE CAPITOL BUILDING, DES MOINES, IOWA

# THE GOVERNMENT OF IOWA AND THE UNITED STATES

BY

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IOWA STATE TEACHERS COLLEGE

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REVISED EDITION

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**To My Father**





## PREFACE

In the preparation of this book the author makes no extensive claim to originality. The history and government of Iowa have been thoroughly investigated and quite thoroughly written up during the past ten years. Precision of statement and logic in arrangement, rather than the display of new material, has been the aim. The greatest problem in writing a text-book on local government is the attractive presentation of the fundamental facts without including too much that is mutable. With each session of the General Assembly there is a change in many of the small details of state government. Some of these changes, although small, are important, others have little effect and are of little value to the student of Iowa civics. It has been the author's aim to emphasize those features of local and state government which are most permanent and essential.

To the well-trained, energetic teacher no text-book is sufficient in itself. Such teacher will look about for additional material out of which to create a greater interest. Biography has not been entirely omitted in the preparation of this text, but in the estimate of the author, biography plays such an important part in the teaching of either history or government that the conscientious teacher will insist upon much outside work in that line from the student. Government is decidedly a study of men in action. Therefore the teacher of government realizes the value of the study of biography as a means of enriching the subject and of creating a lively interest in class work.

Too much emphasis can scarcely be laid upon the use of material illustrations. Local officers of the town and township ought to be pointed out. The official work each has to do

ought to be mentioned. The police force, the fire department, the mail carrier, the truant officer, are all acquaintances of the children in school. Their part in the government of the state and nation may be made topics of great interest. The county court house, containing the county offices, is not far away; primary elections and local conventions are held in every precinct; district court is held at the county seat; a state institution may be near enough for the teacher and the class to visit; or they may visit the state capitol at Des Moines. These outside matters, so difficult to include in a text, may be so correlated with the daily class exercises as to result in great benefit to the student.

The cordial reception granted the text, "History and Government of Iowa," during the first year of publication has encouraged the author to add a civil government of the United States. In presenting the combined text in state and national government, the author can only wish for the new edition the same generous acceptance that has been given the text on state government. The aim in the complete work is to present a text for rural and grade schools and for general use wherever elementary civics is taught in Iowa.

The author wishes to acknowledge the courtesy extended by the Superintendent of the State Historical Department of Iowa in permitting the use of some of the maps appearing in the second edition.

CHARLES H. MEYERHOLZ

CEDAR FALLS, IOWA, JANUARY, 1914.

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# HISTORY AND GOVERNMENT OF IOWA

## CHAPTER I.

### ORIGIN AND OWNERSHIP OF IOWA \*

**The Mound Builders** were the earliest inhabitants of Iowa of whom we have historical evidence. Crude implements, human skulls and other human remains give evidence of a people who inhabited this section of the great Mississippi Valley even before the Mound Builders came. We know nothing of importance concerning these earlier peoples, but believe they were much lower in civilization than the Mound Builders and perhaps were savages. The Mound Builders left material remains from which we have learned much concerning their civilization and mode of living. They are called Mound Builders because in many parts of the Mississippi and Ohio Valleys they erected great mounds of earth to mark the burial places of their dead. These mounds, many of which are located on the bluffs along the Mississippi

\*The meaning of the word "Iowa" is disputed by different authorities. It is an Indian word and is spelled differently in the language of the early Indians who first used it. Some think it means "The Beautiful Land," others say it means "This is the Place." Two other explanations are not so satisfactory — "Across the River," and "The Drowsy Ones." The latter is doubtless not pleasing to the present inhabitants.

River, are found to contain human skeletons, axes and other implements made of stone, copper vessels, stone knives and often stone carvings representing birds and animals. The greatest number of these mounds in Iowa are found along the Mississippi River from Dubuque south as far as Des Moines County, but similar mounds of earth are found in the Des Moines Valley and as far west as the Little Sioux River. A short distance north of Des Moines, on a high bluff, are many acres covered with such mounds. All these remains prove the Mound Builders to have been a people much superior in civilization and life to the Indians who seem to have come later. It is not known how long these early people were able to resist the invaders who drove them out. The people who were the ancestors of the Indians doubtless were their successors.

**The American Indians** were the next inhabitants of Iowa if the evidence we now have is correct. The Indians who formerly occupied the soil of Iowa were not so savage and warlike as many tribes found in other parts of the United States. If they were cruel and treacherous as enemies they were also brave warriors and loyal friends to many white people with whom they soon began to trade. The Indians claimed the soil by right of conquest and occupation and next to the Mound Builders are recognized as the second owners of the soil of Iowa. The countries of Europe held the theory that lands discovered or found in the possession of uncivilized peoples were subject to seizure and settlement by any Christian nation. These European nations recognized the rights of the Indians as occupants of the soil, but asserted that discovery and settlement by Christian nations gave the right to extinguish the Indian title of occupancy.

**Claimed by Spain.** On the morning of October 12, 1492, Christopher Columbus, an Italian from the city of

Genoa, in the employ of the King and Queen of Spain, first saw the land of the western continent. He made discoveries among the islands of the West Indies and claimed the country for the Government of Spain. Columbus made three other voyages to America and discovered the coasts of Central and South America. A little later other Spanish explorers visited the coast of Florida and the Gulf region. During the Mediæval period the authority of the Church was held superior to that of the State and the Pope at Rome claimed to be in the exercise of that authority. On the fourth of May, 1493, Pope Alexander VI. issued a bull, or proclamation, dividing the unchristian world into two parts, giving the western part to Spain and the eastern part to Portugal. As a division line he chose the meridian one hundred leagues west of the Azores. Later (1494) the line was fixed at three hundred and seventy-five leagues west of the Cape Verd Islands. At that time Spain and Portugal were the leading nations of the world in making discoveries and explorations. Spain's claim to America made by Columbus was strengthened by this act of the Church asserting its authority. Thus Spain was the first among Christian nations to claim the soil of Iowa.

**Claimed by England.** In the year 1497, John Cabot sailed from Bristol, England, and in the names of the King and Queen discovered and explored the coast of North America from Labrador towards the south. Later his son Sebastian made another expedition to our eastern shores. On these discoveries and explorations England based a claim to the American continent south of the St. Lawrence River and north of the Spanish claims, and extending from the Atlantic to the Pacific Oceans. From this time England also claimed the soil of Iowa.

**Claimed by France.** In the early years of the sixteenth

century, France made extensive settlements in the St. Lawrence Valley and later pushed farther west and established trading posts along the Mississippi and Ohio Rivers. In the spring of 1673, James Marquette, a French Jesuit missionary, and Louis Joliet, a French-Canadian fur trader, crossed the lakes and followed the Wisconsin River down to the Mississippi. They then floated down the Mississippi in boats and were probably the first white men to see Iowa. They made a landing on Iowa soil, on June 25, 1673, at the mouth of the Des Moines River. In 1682, La Salle descended the Illinois River, then passed down the Mississippi to the Gulf. On the basis of these two expeditions, France claimed the territory drained by the Ohio and Mississippi Rivers and called it Louisiana after King Louis XIV. Now France became another claimant to the soil of Iowa.

**France Cedes Claim.** A dispute soon arose between England and France over the ownership of the territory in the valleys of the St. Lawrence and Ohio Rivers. The trouble increased when the English and the French inhabitants began to make settlements in the Ohio Valley. War broke out in 1755, and by the treaty of Paris, which closed the conflict in 1763, France ceded to England Canada, except three small islands near Newfoundland, and her possessions east of the Mississippi River, except New Orleans. France then ceded her possessions west of the Mississippi and New Orleans to Spain. This gave Spain undisputed ownership of the soil of Iowa.

**Purchased by the United States.** With the close of the French Revolution, about 1799, Napoleon Bonaparte became the leading ruler in Europe. He rapidly made new treaties of alliance with the leading nations on the continent. By the secret treaty of San il de Fonso, of October 1, 1800, Spain ceded the territory west of the

river to France. So we find France again the owner of the territory a part of which later became Iowa. But France found a great rival in England and was anxious to destroy its power and reduce its territory. Napoleon feared England would seize Louisiana and annex it to the territory she already owned. About the same time the United States had great difficulty over the navigation of the lower Mississippi. While Spain yet owned the Louisiana Territory and the land on both sides of the mouth of the Mississippi the Spanish authorities often charged exorbitant duties on goods shipped up the river destined for towns in the United States. These troubles continued after France received the territory from Spain in 1800. Congress decided to make a new treaty with France and if possible to purchase the territory on either side of the mouth of the river. President Jefferson instructed Robert Livingston, who was then minister to France, to make a treaty, and later sent James Monroe to assist in the negotiations. A treaty was negotiated and signed on April 30, 1803, by which France sold the Louisiana Territory to the United States. By this treaty of purchase the soil of Iowa for the first time came into the possession of the United States.

**Territorial Organization.** On October 31, 1803, Congress passed an act placing the Louisiana Territory under the direct control of the President, who was to exercise all military, civil and judicial power through such officers as he would appoint. On March 26, 1804, Congress passed an act dividing the Louisiana Territory on the thirty-third parallel and called the south part the Territory of Orleans and the north part the District of Louisiana. To the Territory of Orleans Congress gave an organized government, consisting of governor, secretary, legislature and judiciary, all of whom were to be appointed by the



President. The north part, called the District of Louisiana, was placed under the control of the governor and judges of the Territory of Indiana, who were to establish courts in the district and prescribe their jurisdiction. Iowa was then a part of this District of Louisiana. On March 3, 1805, Congress changed the name, District of Louisiana, to Territory of Louisiana and gave it a territorial government of its own to be administered by a governor, secretary and judges. Iowa was thus a part of the Territory of Louisiana.

**Part of Missouri.** On June 4, 1812, Congress passed an act changing the name of the Territory of Louisiana to the Territory of Missouri and gave it an organized form of government. Iowa existed as a part of the Territory of Missouri until that territory was admitted into the Union as a State on August 10, 1821. From 1821, Congress seemed to have forgotten about the territory to the north of Missouri and it remained without a government and the protection of law until a crime was committed in 1834, when the attention of Congress was called to its condition and all this territory was included within the Territory of Michigan.

**With Michigan and Wisconsin.** Iowa existed as a part of the Territory of Michigan from June 28, 1834, until April 20, 1836, when Michigan was reduced to its present size and the remainder of that territory was organized under the name of Wisconsin. From 1836 until June 12, 1838, Iowa was a part of Wisconsin Territory, but was on that date separated from Wisconsin, and all that part of Wisconsin Territory lying west of the Mississippi was organized under the Territory of Iowa.

**Iowa Territory.** Iowa Territory was bounded on the south by the State of Missouri, on the west by the

Missouri and White-earth Rivers, on the north by Canada, and on the east by the Mississippi River and a line due north from the head waters of that river to the Canadian line. Thus Iowa Territory included the present State and parts of Minnesota and of North and of South Dakota. Iowa remained a territory until December 28, 1846, when it was admitted into the Union as a State.

### QUESTIONS

- 1 Who were the Mound Builders?
- 2 Compare the Indians and the Mound Builders in their habits of life.
- 3 Trace the steps in European claims to Iowa territory.
- 4 To what different territories in the United States did Iowa belong?
- 5 What is the origin of the name "Iowa"?

## CHAPTER II.

### EARLY SETTLEMENTS IN IOWA

**Indians in Iowa.** When the first white men of Europe explored the lands west of the Mississippi River they found the American Indians living in wigwams clustered in villages along the hillsides and streams. They made their living by hunting and fishing and by a crude form of agriculture by which they stirred the soil with sharp sticks and raised maize and other grains. Iowa was an ideal land for the Indian. On the hills and in the valleys were deer, and on the prairies were found the buffalo. Wild turkeys, prairie chickens, grouse and other wild game were to be found on the meadows and in the thickets. Plums, grapes, and other wild fruits were in abundance.

The Indians found predecessors in the Mound Builders, a race of people who differed in stature and in mode of living from themselves. The numerous great mounds of earth found on the high bluffs along the Mississippi River tell a long story of the life and habits of these interesting people. Their departure was doubtless hastened by the bands of savage Indians who came into the Mississippi Valley from both the east and the west. Some of the most noted tribes of Iowa Indians were the Sioux, who held the regions in the north of Iowa and Minnesota and penetrated into Dakota. The Sacs and Foxes, who roamed over the plains of Iowa, Illinois and Wisconsin, were members of the Algonquin tribe from the eastern Middle States. The Iowas were in the southern part of the State and the Dakotas came from the northwest. There were many





Michigan Territory

Dodgeville.

Dubuque Mines

Galena

Fort Armstrong

Yellow Banks

Keokuk Village

Reservation

SACS & FOXES

BLACK HAWK

INDIAN BOUNDARY

IOWA

ceded by Sacs & Foxes

Neutral Ground

ceded by Sioux

IOWAS

DES MOINES R.

Missouri.

ILLINOIS

Rock R.

Yellow Banks R.

\* Half Breed Tract - by treaty, 1824



other tribes among whom were the Winnebagoes, Pottawattamies, Chippewas, Ottawas, and the Illini. Many of the counties, cities and towns derived their names from Indian tribes and from the Indian chiefs.

**The Indians Lost Iowa.** The transfers of lands from the Indians to the whites were made through treaties. Delegates representing the United States and delegates representing the Indians met and agreed on terms. The Government paid for the territory and the amount and other details were put into writing and the chiefs made their marks as signatures. The Indians were often unable to cope with the white man's shrewdness and generally were badly cheated. Bright colored blankets, fire-arms and whiskey often purchased more than their value in lands. The most noted treaty by which Iowa lands were secured from the Indians was in 1830, when the United States bought from the Sacs and Foxes, Sioux, Omahas, Otoes and Missouris, a large portion of the western part of the State, by paying a small sum to each of the tribes. Another large area was secured by the Black Hawk Purchase in 1833, and in 1836 the four hundred square miles reserved for the Sacs and Foxes, and comprising Louisa County, was secured by the whites.

**First White Settlers.** It was more than a hundred years after Marquette and Joliet first landed on Iowa soil before the first white settlers came to establish homes on the west side of the Mississippi. The first white man to settle in Iowa and to earn a living from the products of its soil was Julien Dubuque, a Frenchman, who came to what is now the city of Dubuque, in 1788. He learned from the Indians what rich deposits of lead were found on the banks of the river and he obtained from the Indians the sole right to work the lead mines. He took ten French-Canadians

with him and by a treaty signed with the Foxes on September 22, 1788, at Prairie du Chien, he acquired the desired lands and immediately began operations. Dubuque built a log house, planted corn and other grains, and soon made his men comfortable in the little village. In March, 1810, Dubuque died and was buried on the bluffs near by the village. A wooden cross above the grave contained the inscription, "Julien Dubuque, Miner of the mines of Spain."

In 1795, or seven years after the first settlement made in Iowa, another Frenchman, whose name was Basil Gaillard, sometimes referred to as Giard, settled a little farther north along the river on the present site of McGregor in Clayton County. He is reported as having known Dubuque, and the two men sometimes traded together. Several years later, after the death of Gaillard, his heirs sold the immense tract of land for the small sum of three hundred dollars.

A third settler on Iowa soil was Louis Honori, who settled near Montrose in Lea County. He obtained a title to his lands from the Lieutenant-Governor of Louisiana Territory in 1799. In 1839, the United States issued a title to some of this land and it is said to be the earliest title to any soil in Iowa. A little later came Dr. Muir, a Scotch surgeon in the army, who was at first stationed in a frontier fort in Illinois and who later built a house on the present site of the city of Keokuk. Another early settler was Antoine LeClaire, who was among the first to settle at Davenport. A little later came Colonel George Davenport, a trader and army contractor, who settled in Davenport about 1820. It was after him that the city of Davenport took its name.

Two expeditions sent out for the purpose of exploration deserve mention in connection with the early history of Iowa. The first was the Lewis and Clark Expedition, sent

out by President Jefferson, and starting from St. Louis in 1804. The second was that under Lieutenant Zebulon Montgomery Pike, sent out by the army, also starting from St. Louis, but a year later. Pike was to explore the Mississippi River to its source, and to select suitable places for the erection of forts to secure the newly purchased territory. Lewis and Clark were instructed to follow up the Missouri to its source, and if possible to explore the country over to the Pacific Coast. They, like Pike, were instructed to meet the Indians and explain their mission and to cultivate their friendship by giving them presents. They held a council at a point along the great bluffs on the Missouri about opposite from the present site of Council Bluffs. Other places were visited by the same expedition; among them was Sioux City, during the month of August, 1805.

Other settlements were later made within the interior of the state along the Des Moines, Iowa and Cedar Rivers. Many of these earliest settlements were made by fur trading companies, among which were the American, the Green Bay, and the stations controlled by the Chouteaus of St. Louis. Pierre Chouteau, Sr., established a trading post where the city of Ottumwa now stands. In 1838, the agency for the Sac and Fox Indians was located where Agency City now stands, and General Joseph M. Street was placed in charge. Settlements gradually spread to the north, and in 1843 a fort was built on the spot where Des Moines now stands. The fort was at first called Fort Raccoon and was under the command of Captain James Allen; later the name was changed to Des Moines. Fort Clark was another early settlement, made in 1850, and later became Fort Dodge at the suggestion of General Winfield Scott. Such forts were established all over the central and western part of the territory to give protection to the pioneer settlers as they gradually claimed the soil

from the Indians. Most of them continued as forts only long enough to assure a peaceful settlement by the whites.

### QUESTIONS

1. Name the different Indian tribes found in early Iowa.
2. What natural resources first attracted white people to Iowa?
3. Name the early settlements in Iowa.
4. Why were so many military forts established in Iowa in the early days?
5. Describe the soil of Iowa.
6. What are the chief farm products in Iowa?
7. What are the chief mineral products?
8. What was the Spirit Lake massacre?
9. Name five towns or cities named after Indians.
10. From whence did the early white settlers come to Iowa?

## CHAPTER III.

### TERRITORIAL GOVERNMENT

**Origin of Territorial Lands.** When the colonies won their independence from England with the close of the Revolutionary War, they also won the title to the country lying between their western boundaries and the Mississippi River. Seven states — Massachusetts, Connecticut, New York, Virginia, North Carolina, South Carolina, Georgia— claimed these western lands as parts of their colonial areas. Six of the states had no western lands and they declared these lands lying to the west ought to be ceded to the Federal Government, and owned by the states in common, as they had all fought for a common cause during the war and all ought to share equally in the lands taken from England. The states without lands won their demands by refusing to adopt the Articles of Confederation until the other states consented to give up their western land claims.

**Origin of Territorial Government.** As early as 1780, it was evident the Federal Government would eventually become the owner of this great area commonly known as the Northwest. Three years later, Congress began to consider plans of government for the people who were rapidly settling this region. On April 23, 1784, an Ordinance was passed by Congress providing for a temporary government, but the provisions of that first Ordinance were not satisfactory to many people and no settlements were made under it. The subject was debated in Congress for three years longer before any definite action was taken. Finally, on July 13, 1787, another Act, known

as the Northwest Ordinance, was passed by the Congress of the Confederation and provided a territorial government for the territory northwest of the Ohio River.

**The Northwest Ordinance.** The Organic Act of July 13, 1787, for the government of the Northwest Territory, is a state paper second in importance only to the Constitution of the United States. The Ordinance embraced three distinct purposes. First, it granted to the inhabitants of the territory those fundamental political and personal rights which are deemed to lie at the basis of the American system of government. They include the recognition of the equality of inheritance; the absolute freedom in belief and worship; the prohibition of legislation violating the obligation of contract; the necessity for ample provision for education; the fair treatment of the Indians; and the prohibition of slavery in the territory. Second, it was a constitution or fundamental law for the immediate government of the territory. To this end it superseded the Ordinance of April 23, 1784. Third, it declared the general attitude of the Federal Government in what it deemed should be the ultimate status of such territory. It specifically stated that this territory was to be perpetually a part of the Union and when it reached a sufficient stage of development was to be admitted into the Union in not less than three or more than five states. In this Act, which formed the basis for all future acts for the government of territories, Congress definitely asserted its absolute supremacy over unorganized territory, and the limitations it proposed to place over such territory as it organized.

**Relation to Federal Government.** An organized territory remains under the absolute control of Congress, and may at any time suffer its Organic Law repealed or its area divided and another territory created. The territory differs then from a state in that the territory is subject



directly to the laws of Congress, while the state is subject to the Constitution of the United States and may exercise all powers not prohibited to it by the Constitution. Because of this difference the states have privileges not enjoyed by the territories. The people of a territory have no voice in the election of President, and they have no senators or representatives in Congress. Each territory does have a delegate in the national House of Representatives. He is elected by the people of the territory and has the right to take part in debate, but not to vote.

**Organic Act of Iowa.** The Organic Act making Iowa a separate territory was passed by Congress on June 12, 1838. It was a written constitution according to which the territory was to be governed. It differed from the present State Constitution in that it was made by Congress and not by the people of the territory. It was similar in many ways to the State Constitution and divided the government into executive, legislative and judicial departments, provided officers for each, and defined their duties. The Act begins by defining the boundaries of the territory. It was to include the part of Wisconsin Territory not included within that state. Iowa Territory was bounded on the south by the northern boundary of the State of Missouri, on the west by the Missouri and White-earth Rivers, on the north by Canada and on the east by the Mississippi River and by a line due north from the source of the Mississippi to Canada. It therefore included the present State of Iowa and parts of Minnesota, North Dakota and South Dakota. Congress reserved the right of dividing the territory into two or more territories at its own discretion.

**The Executive Authority.** The Organic Act vested the executive power and authority in a governor, who was to be appointed by the President of the United States with the

consent of the Senate, and was to hold office for a period of three years unless sooner removed by the President. The duties of the governor were carefully enumerated. He was to be, above all, a general executive officer and administrator of the affairs of the territory. He was commander-in-chief of the militia, superintendent of Indian affairs, and was required to approve all laws of the territorial legislature, which gave him the absolute veto power. The veto power was modified by Congress in 1839, so as to allow the legislature to pass an act over the governor's veto by a two-thirds vote of both houses. The governor could pardon all offenses against the laws of the territory and could grant reprieves for offenses committed against the laws of the United States, until the decision of the President could be made known. The act further provided that with the advice and consent of the legislative council the governor was to appoint all judicial officers, except those of the staff, and all civil officers not therein provided. He also could appoint to office in case of vacancy occurring during recess of the council. The governor was also given authority to initiate the new government, to call the first elections and to determine the place of meeting of the first legislature. In fact, the authority of the governor under the territory was in many respects greater than that of state governor of later date.

**Other Officers.** The Organic Act further provided for a secretary, a marshal, an attorney, a chief justice and two associate justices. All these were to be appointed by the President and confirmed by the Senate. The governor and other six officers constituted the chief officials of the territory. All but the governor were appointed to serve for four years or until removed by the President. These officials were generally chosen from outside the territory, and it was not until recent times that territorial govern-



ors, secretaries and judges have been frequently chosen from among the people they are to serve. It was the duty of the secretary to keep a record of all acts and proceedings of the governor in his executive department, and to record and preserve copies of all laws enacted by the legislature. On or before the first Monday in December each year it was his duty to forward one copy of each to the President of the United States and to send two copies of each to the Speaker of the House of Representatives for the use of Congress. In case of death, removal, resignation, or necessary absence of the governor, the secretary of the territory was to fill the office until the President made another appointment. The power of the President to appoint and remove territorial officials, and the power of Congress to accept or reject any legislation that the territory enacted, formed a close connecting link between the territorial and Federal Governments.

**The Legislative Authority.** The legislative authority was vested in a governor and a legislative assembly. The legislative assembly consisted of two houses, an upper house, called the Council, and a lower house, called the House of Representatives. The Council consisted of thirteen members chosen by the qualified electors of the territory to serve for a period of two years. The House of Representatives consisted of twenty-six members elected by the qualified electors for a period of one year. The powers of the legislature were great and in some respects comprehended a broader sphere of activity than is now possessed by the state legislature. The legislative power was to extend to all rightful subjects of legislation. There were, however, certain limitations upon the powers of the legislature. No law could be passed interfering with the primary disposal of the soil; no tax could be imposed upon property of the United States; the lands

and other property of non-residents could not be taxed higher than those of residents, and all laws of the territory had to be submitted to Congress, and if disapproved by that body, were to be void. The first legislature passed acts providing for the location of the territorial capital at Iowa City; for the establishment of a code of criminal procedure; for the chartering of corporations for business purposes; for the further organization of counties which had been begun under Michigan and Wisconsin Territories, and for the protection of personal property and the securing of personal rights.

**The Judicial Authority.** The judicial authority was vested in a Supreme Court, District Courts, Probate Courts, and in justices of the peace. The Supreme Court consisted of a chief justice and two associate justices, any two of whom were to constitute a quorum, and who were to hold a term of court at the seat of government annually, and were to serve for a term of four years. The territory was divided into three judicial districts and one judge was to preside over each district and to take up his residence in the district over which he presided. As judges of the Supreme Court they met once a year at the seat of government, and as District judges they held court in the counties, each in his own district. The jurisdiction of the courts and of the justices of the peace was left by the Organic Act to be provided for by the legislature, except that the justices of the peace were denied jurisdiction in cases when the titles or boundaries of lands were in dispute or when the sum in controversy exceeded fifty dollars. The justices' courts were the lowest courts of the territory and their jurisdiction was co-extensive with the county. These justices were at first appointed by the governor, but later, by an amendment to the Organic Act, they were elected by the people.

Cases could be appealed from the justices' court to the district courts and from there to the Supreme Court of the territory, which was final for all cases in which the sum in controversy did not exceed one thousand dollars. Cases involving larger amounts could be appealed to the Supreme Court of the United States. Indictments for offenses against the laws of the territory were brought by grand juries and the cases were tried in the courts by *petit* juries in the same manner as they are to-day under the laws of the state. An attorney and a marshal were also appointed by the President to assist the courts in the prosecution of cases arising. District attorneys were appointed by the governor and were to prosecute all cases against the territory arising within their respective districts.

**Local Institutions.** Counties were already surveyed and established in Iowa, while the territory was yet under the jurisdiction of Wisconsin. Twenty-two counties had been organized and officers elected to carry out the local government. The power to establish counties in the territory of Iowa was given to the legislature. Each county was under a Board of three commissioners, whose duties and powers corresponded to those of our present Boards of county supervisors. The commissioners appointed their own clerk who performed such duties as are now performed by the county auditor. Other officers of a county were a sheriff, a recorder, a surveyor, an assessor, constables and justices of the peace. The commissioners held office for three years, the sheriff, recorder, surveyor, constables and justices of the peace held office for two years, and an assessor was appointed annually for each county.

**Education.** The Organic Act had but little to say concerning education, but Robert Lucas, the first terri-

torial governor, was a public-spirited man and was enthusiastic for education and the moral development of the people. His first message to the territorial legislature contained a recommendation for a public school system. He said, "There is no subject to which I wish to call your attention more emphatically than the subject of establishing at the beginning of our political existence, a well-digested system of common schools." The legislature acted upon his advice and provided that the county commissioners should divide their respective counties into school districts whenever a petition signed by a majority of the voters within such districts should be presented to them. The people did not consider education of so great value in those early days and it seems that no districts were actually organized under that law.

**Suffrage.** The right of suffrage was granted to the people of the territory by the Organic Act and was further declared by an act of the territorial legislature in the following terms: "No person shall be entitled to vote at any election in this territory who has not attained the age of twenty-one years, who is not a free white male citizen, and who has not resided in this territory at least six months immediately previous to his application to vote.

**The Boundary Question.** The boundary line between the Territory of Iowa and the State of Missouri soon became a matter of dispute and Congress was called upon to settle the question. On June 18, 1838, Congress passed an act providing for a commission to ascertain the proper division line and to mark it. The act provided for three commissioners, one from Missouri, one from Iowa, and one to be chosen by Congress. Missouri refused to be represented upon the commission and continued to claim lands in Iowa Territory, and to collect taxes from them.

Iowa authorities offered to refer the entire matter to Congress, but Missouri refused and threatened to invade Iowa with an armed force. Robert Lucas, then governor of Iowa Territory, claimed the dispute was not one between Missouri and Iowa, but between Missouri and Congress, and as the representative of the rights of Congress over the territory, he would hold the disputed lands at all hazards and do so by armed forces. The Missouri authorities then consented to refer the entire question to the United States Supreme Court, by whose decision, in 1848, all the land claimed by Iowa was awarded to the territory.

### QUESTIONS

1. Tell something of the Northwest Ordinance of 1787. Where does Congress derive its authority to control territory?
2. Bound the Territory of Iowa.
3. What is the name given to the fundamental charter of a territory? Who makes it?
4. How are the chief officers of a territory chosen?
5. Which were the earliest counties formed on Iowa soil?
6. Who was Sergeant Floyd?
7. Who were permitted to vote in the Territory of Iowa?
8. What limitations were placed upon the territorial legislature?
9. What action did the first legislature take concerning public schools?
10. When were colored people first allowed to vote in Iowa?



## CHAPTER IV.

### EARLY STATE GOVERNMENT

**Rights of the People.** The political and personal rights of the people of Iowa, both as a territory and as a state, had their origin in the rights first guaranteed by Congress to the people of the Northwest Territory. In the previous chapter we learned these rights embraced the right of equality of inheritance; freedom of worship; the right and necessity of establishing public schools; the prohibition of slavery within the territory; the maintenance of recognized legal rights at common law, such as trial by jury, the writ of habeas corpus, the holding of private property, moderate fines and no cruel or unlawful punishment; and that all persons shall be bailable unless held for capital offenses. These fundamental rights were retained in each of the territorial governments of the subdivisions of the Northwest Territory, and we find them restated in the territorial governments of Michigan, Wisconsin and of Iowa, in the following language: "The inhabitants of the said territory shall be entitled to and enjoy all the rights, privileges and advantages granted and secured to the people of the United States northwest of the river Ohio."

**The Origin of Institutions.** Almost all institutions found in the state at a later date had their origin in the territory. The calling of elections, the taking of the census, the enumeration of officers and many other functions and duties were provided for by the provisions of the Organic Act. The Organic Act also made provision for the purchase of a library to be kept at the seat of govern-

ment. The first territorial legislature granted charters of incorporation to the cities of Davenport and Muscatine, and gave away many exclusive privileges to individual citizens, such as charters for the operation of ferry-boats across rivers and the running of stage-coaches. The first legislature also provided for the erection of a penitentiary at Fort Madison and voted to build a capital building on a site to be selected in Johnson County. In 1838, agricultural societies were formed for the stimulus of better farming. Later these early agricultural meetings were incorporated under the laws of the territory, and later still developed into county fairs. The territorial legislature made provision for the education at the public expense of all white children of the territory and encouraged the founding of academies and seminaries. On December 29, 1838, the legislature passed an act incorporating The Wapello Seminary in Louisa County. Fort Madison, Burlington, Dubuque, Davenport, Keosauka and Mount Pleasant were among other early towns having these schools. Banks were also chartered at an early date. The second general assembly of the state established a state university at Iowa City and provided that it have two branches, one at Dubuque and the other at Fairfield. These branches were never erected and soon that part of the act was repealed. An act was also passed providing for Normal Schools at Andrew, Oskaloosa and Mount Pleasant. This act was also repealed and a normal department was attached to the University until 1876, when the legislature authorized the organization of such school at Cedar Falls.

**Territorial and State Capitals.** Iowa, as both territory and state, has had three capital cities. When Wisconsin was first organized as a separate territory in 1836, there was a rivalry between the Mississippi River towns for the



seat of government. A vote of the people finally decided the matter in favor of Madison, now the state capital of Wisconsin. The provisional law accepting the choice of the people was so drawn up as to provide a temporary capital at Burlington until a suitable building could be provided at Madison. The capital was to remain at Burlington until March 4, 1839, unless the buildings were completed earlier than that date. The first building used as a capitol in Burlington was erected by a wealthy man of the territory, named Smith, but this building was destroyed by fire in the fall of 1837, and during the next session of the legislature the two Houses met in separate buildings. The Council met in the upper room of a store building and the House of Representatives met in a frame building not far away. When Iowa was organized as a separate territory, with a government of its own, in 1838, the Organic Act provided that the legislature should hold its first session at such time and place in the territory as the governor should appoint and direct. The act also provided that the governor and legislature should as soon as possible locate and establish a seat of government for the territory. Robert Lucas, the first governor, decided to continue Burlington as the capital city of the territory of Iowa and called the first territorial assembly together there in November, 1838. The first session was held in Zion Church. This old building was built of brick and was used as a court-house and general public building, besides housing the first territorial legislature.

The first territorial legislature decided to locate the permanent capital farther west and provided for a commission to select a site. The commission finally decided on a site on the banks of the Iowa River in Johnson County, now occupied by Iowa City. On April 30, 1841, Robert Lucas, as governor, issued a proclamation changing the capital from Burlington to Iowa City, where it remained through-





OLD ZION CHURCH, CAPITOL OF IOWA TERRITORY

out the territorial period. The capital remained at Iowa City after Iowa became a state, but as settlements extended westward the feeling grew that the capital ought to be located nearer the center of the state. Des Moines was at that time the only town in the central portion of the state of any considerable size and it was selected to be the permanent capital. In November, 1857, the capital was removed to Des Moines and the records, furniture and equipments of the offices of state were drawn across the country on bob-sleds and placed in the new building in that city. "The capitol building was in the midst of heavy woods, with squirrels, quail and grouse abundant. Along Four Mile Creek, to the east, were wild turkeys, and an occasional elk and deer. There were no sidewalks near the capitol. Hazel brush was dense. Not far off was a pond containing muskrats. The only bridge across the river was a pontoon structure. The East Side, the side on which the capitol then, as well as to-day, was located, had about thirty houses. Muddy lowlands stretched between the capitol and the river."\* The temporary capitol building at Des Moines was a three story structure and resembled a modern school building rather than a state capitol. The present beautiful capitol was begun in 1873, and finished twelve years later at a cost of more than three million dollars. The Iowans are proud of their capitol, asserting that during the entire period of its erection not a single action expired that was not honest and worthy of being approved by the people, and the entire cost was much less than is often expended upon similar public buildings.†

**Making of the Constitution.** As early as the fall of 1839, Governor Lucas recommended that the legislative

\*"The Making of Iowa." *Henry Sabin*. Page 198.

†"History and Government of Iowa." *Seerley and Parish*. Page 125.

assembly memorialize Congress for permission to form a Constitution. No definite result came from this recommendation. In 1840, the question of calling a constitutional convention was submitted to a vote of the people. It was defeated by a large majority. The same question was again submitted to the people in 1842, and was again defeated by a decisive vote. The opponents of state organization continued to express fear lest the change from territory to state would greatly increase the burden of taxation. They also claimed a state government could not increase their advantages beyond what the territory already gave except in the matter of representation in Congress and that would not recompense for the added burdens of taxation. The Whigs, who were then rapidly gaining strength under their Whig governor, claimed the Democrats only urged statehood for the purpose of providing places for Democratic office-seekers. In December, 1843, Governor Chambers sent a recommendation to the legislature urging that the question of forming a Constitution and applying for admission into the Union be again submitted to the people. By this time the population of the territory numbered over seventy thousand people and the governor felt sure Congress would admit the territory to statehood if the people would only vote in favor of becoming a state. Two years of growth and reflection had brought about a change in sentiment. The people had evidently become convinced that statehood had advantages over territorial government and the legislature voted to submit the question to the people once more. The vote was taken in the township elections in April, 1844, and this time the people voted in favor of framing a Constitution and applying for admission into the Union as a state. Delegates were elected and a convention was held at Iowa City, October 7, 1844, at which time a Constitution and boundary lines were agreed upon for the new

state. These lines included a large part of the present state of Minnesota, but excluded a tract embracing all the present counties of Lyon, Osceola, and Sioux, and parts of Dickinson, O'Brien, Plymouth and Woodbury. The proposed Constitution, with outlined territory for the proposed state, was submitted to Congress for approval, but that body saw fit to change the proposed boundary lines, and when it was submitted to the people at an election in April, 1845, it was defeated. Then the question of adopting the Constitution, as it was framed by the convention, was voted on and it too was defeated. It was not until May 4, 1846, that another constitutional convention convened at Iowa City and this time succeeded in framing such Constitution and defining such boundaries as would meet the approval of both the people of the state and of Congress. The boundaries described in the Constitution were identical with those of the state at the present time and the provisions of the Constitution were such as were in harmony with a statehood bill then pending in Congress. This Constitution was adopted by the people at an election held August 3, 1846, the vote being 9492 for and 9036 against the Constitution. Congress ratified the action of the people and Iowa was admitted into the Union as the twenty-ninth state on December 28, 1846. The question of amending or revising the Constitution was agitated in 1854, and the fifth general assembly passed an act approved January 24, 1855, providing an election to be held in August, 1856, at which was submitted the question of revision and amendment. The proposition carried and at a special election held the following November, delegates were chosen to meet at Iowa City in January, 1857. The present Constitution of the State of Iowa was framed in this convention, and was adopted by the people at an election held August 3, 1857. The governor issued a proclamation proclaiming it to be in effect September 3, 1857.



**The First Election.** The people of Iowa felt sure Congress would admit the territory into the Union and immediately after the ratification of the Constitution at a popular election, began preparations for carrying on state government. Governor James Clark issued a proclamation calling an election for October 26, 1846, for the purpose of choosing state officers and members of the general assembly. The first election was important because the controversies over statehood had unsettled political parties and because each political faction thought it ought to exert as large influence as possible over early state institutions. The first general assembly would also have the privilege of choosing the first United States Senators and of selecting three supreme court judges, for under the first Constitution of the state these judges were chosen by the legislature instead of by popular vote, as at present. The Democrats carried the election and the governor and other state officers were chosen from that party. In the election of members to the general assembly the Democrats were not so successful. When the legislature met it was found the Whigs had nearly as many members as did the Democrats, and together with a few other members, who were not directly identified with either of the two great parties, they caused a political deadlock in the first legislature and it failed to elect United States Senators or supreme court judges. After the adjournment of the legislature the governor appointed judges for the supreme court, who at once took up the duties of their offices. But the United States Senators were not so chosen and the state was not represented in the United States Senate during the first two years of statehood.

**Revision of the Constitution.** The Constitution of 1846 was not considered satisfactory at the time of its adoption, but the people were anxious to be admitted into the



Union and voted for the Constitution as the shortest road to admission. In fact, the newspapers of the state declared certain articles of the Constitution must be changed even before Congress had fully admitted the territory into the Union. An attempt was made to amend the Constitution in the first session of the legislature, but it came to nothing. The amending or revising of the Constitution was made the political issue in the campaign of 1848. This agitation continued until the election of Stephen Hempstead as governor. He was thoroughly opposed to changing the Constitution and during the next four years, from 1850 to 1854, little progress was made in that direction. In some respects the first state Constitution had great defects and it soon became evident the people would demand certain changes be made. The ninth article of the Constitution denied the legislature the power of creating corporations by special laws. It practically denied the people the right of banking privileges, and what was worse, it caused Iowa to be flooded with depreciated paper currency from other states. In 1855, the general assembly passed an act providing for the amendment of the Constitution. It provided that the question should be voted on by the people at the general election of 1856. The proposition carried before the election and in November thirty-six delegates were elected to a convention to revise or amend the Constitution. The result was a thorough revision and the principal changes were as follows: The legislature was given power to make laws relating to corporations; it could pass general laws for banking under certain restrictions; it could establish a state bank with branches, but such bank must be founded on an actual specie basis; it increased the limit of the state indebtedness from \$100,000 to \$250,000; it provided that the question of calling a new convention should be submitted to the people every ten years; it changed the period of

taking the census from every two to every ten years; it provided that the state should protect the permanent school fund by being responsible for the losses and making them part of the funded debt; it provided for a Board of education to have control of educational interests, but this clause was soon changed; it changed the term of governor from four years to two years; it provided for a lieutenant-governor and for an attorney-general; it provided for the election of the supreme court judges by the people at the general election instead of by the legislature; it located the permanent seat of government of the state at Des Moines and the State University at Iowa City.

### QUESTIONS

1. What fundamental rights were possessed by the people of Iowa?
2. Explain the process by which a territory becomes a state?
3. What are corporations?
4. When were academies and schools first founded in Iowa?
5. Where was the first capital of Iowa located?
6. When was the capital moved to Des Moines?
7. Describe the process of making a state Constitution.
8. When was Iowa admitted into the Union as a state?
9. What is the difference between a mending and revising a Constitution?
10. What is the difference between a territory and a state?

## CHAPTER V.

### GOVERNORS OF IOWA

The government and institutions of a state are modified to a large extent by the lives and character of its party leaders. In this respect Iowa has been fortunate. Both as a territory and as a state the governors have been, in many instances, men of both state and national reputation. In many cases the men who have filled the office of governor in the State of Iowa have been the recognized leaders of their parties at the time of their election. Under the territorial government the governor was appointed by the President and confirmed by the United States Senate, while under the government of the state, he has been chosen by popular vote. With the revision of the Constitution in 1857, the term of governor was changed from four to two years.

**Robert Lucas**, first Governor of Iowa Territory, was born at Shepherdstown, Virginia, April 1, 1781. At the time of his appointment as Governor of Iowa, he was fifty-seven years old. He was tall and slender and is said to have resembled Andrew Jackson. His father was an officer in the Revolutionary War and Robert early became a soldier and attained to the rank of captain, and later to that of colonel, while serving in the War of 1812. He was county surveyor, justice of the peace, and for nineteen years a member of the Ohio Legislature, during which time he served as Chairman of both Houses. He was elected Governor of Ohio in 1832 and was re-elected in 1834. He was Chairman of the National Democratic Convention in

## GOVERNORS OF IOWA

GOVERNORS	ELECTED	SERVED
* Robert Lucas	July 7, 1838	1838-1841
John Chambers	March 25, 1841	1841-1845
James Clarke	November 18, 1845	1845-1846
Ansel Briggs	October 26, 1846	1846-1850
Stephen Hempstead	August 5, 1850	1850-1854
James W. Grimes	August 3, 1854	1854-1858
Ralph P. Lowe	October 13, 1857	1858-1860
Samuel J. Kirkwood	October 11, 1859	1860-1864
William M. Stone	October 13, 1863	1864-1868
Samuel Merrill	October 8, 1867	1868-1872
Cyrus C. Carpenter	October 10, 1871	1872-1876
† Samuel J. Kirkwood	October 12, 1875	1876-1877
‡ Joshua G. Newbold	February 1, 1877	1877-1878
John H. Gear	October 9, 1877	1878-1882
Buren R. Sherman	October 11, 1881	1882-1886
William Larrabee	November 3, 1885	1886-1890
Horace Boies	November 5, 1889	1890-1894
Frank D. Jackson	November 7, 1893	1894-1896
Francis M. Drake	November 5, 1895	1896-1898
Leslie M. Shaw	November 2, 1897	1898-1902
Albert B. Cummins	November 5, 1901	1902-1908
§ Warren Garst	November 24, 1908	1908-1909
Beryl F. Carroll	November 3, 1908	1909-1913
George W. Clarke	November 5, 1912	1913-

\* The first three named were Governors of the territory.

† Resigned February 1, 1877, having been elected United States Senator.

‡ Lieutenant-Governor, served unexpired term for which Kirkwood was elected.

|| Resigned November 24, 1908, having been elected United States Senator.

§ Lieutenant-Governor, served for unexpired term for which Cummins was elected.

1832. As a young man, Lucas acquired a good education under the direction of a private tutor, he had long experience in the army and in public life, and was a man of temperate habits, high ideals and ambitious to serve the people well. In 1838, President Van Buren appointed him to serve as the first Governor of the Territory of Iowa. He served as Governor from 1838 to 1841, after which he continued an active interest in the affairs of the territory and state by attending conventions and leading in political discussions.

Governor Lucas came to Iowa at a time when the new territory needed a strong and statesman-like leader to set the new government into operation. He dealt with the Missouri boundary dispute in a firm and judicious manner. He believed in religion and was enthusiastic in support of education and did much for the betterment of the common schools of the territory. He was strongly opposed to gambling and intemperance and was a leader in the temperance movement in Iowa. In 1844, and again in 1846, Lucas was a delegate in the conventions for the framing of State Constitutions. He died in Iowa City, February 7, 1853, at the age of seventy-two.

**John Chambers**, the second Governor of Iowa Territory, was born in New Jersey in 1780. He was admitted to the bar in 1800 and was elected to the Kentucky Legislature in 1812. In 1828, he served in the lower House of Congress. When William Henry Harrison, the first Whig President, was inaugurated, he appointed John Chambers to be Governor of Iowa Territory and gave him a commission to enter upon the duties of that office on March 25, 1841. He was also appointed a member of a commission to negotiate treaties with the Sac and Fox Indians. He was a wise administrator as Governor of Iowa, but was a Whig in politics and was removed from office for political

reasons when Polk became President in 1845. President Taylor appointed Mr. Chambers to negotiate a treaty with the Sioux Indians in 1849. Later in life he retired to his large farm near the city of Burlington, where he lived until a few years before his death, when he moved to Kentucky, dying there in 1852.

**James Clarke** was the third and last Territorial Governor of Iowa. He was born in Pennsylvania in 1812. When a boy, he learned the printer's trade and worked for a time in Harrisburg. In 1836, he went to St. Louis and engaged in newspaper work. Later, he was editor of the *Belmont Gazette*, and when the capital of Wisconsin was moved to Burlington he followed and was soon after appointed librarian of the territory. In 1839, President Van Buren appointed him Secretary of the Territory of Iowa. He served as Mayor of Burlington, and in 1844 was chosen as a delegate to the first convention for the making of a State Constitution. President Polk made him Governor of Iowa on November 18, 1845. Mr. Clarke served from the date of his appointment until the admission of Iowa Territory into the Union as a state on December 28, 1846. He died at Burlington on the 28th of July, 1850.

**Ansel Briggs** was the first State Governor and served for one term of four years. He was born in Vermont in February, 1806. During his early political career he belonged to the Whig party, but became a Democrat soon after coming to Iowa. In 1842, he was elected a representative in the territorial legislature from Jackson County. He was nominated as candidate for State Governor in the Democratic State Convention, at Iowa City, on September 24, 1846. Governor Briggs was a conservative in matters of party interest, and left the office in 1850 with the good wishes of both political parties. In 1870 he moved to Council



Bluffs, and later lived with his son in Omaha, Nebraska, where he died in May, 1881.

**James Wilson Grimes** was the third Governor of the State of Iowa and was the first Governor after Lucas to become a national character. He was a New Englander by birth, having been born in New Hampshire in 1816. His grandparents were among the patriots of the American Revolution. He entered Dartmouth College in August, 1832, and remained a student there for three years. He came west in 1835 and settled in Burlington, which was then within Michigan Territory. He served for a time as secretary to the United States Commissioner of Indian affairs. Mr. Grimes was admitted to the bar in 1837, and was made city solicitor for Burlington near the close of the same year. He sat as a member of the First Legislative Assembly of the Territory of Iowa and was again elected to the Sixth Assembly of the Territory. Later, he was a member of the Fourth General Assembly of the state.

In 1854, the Whig party nominated Grimes for the office of Governor. He was elected and served from 1854 to 1858. The following year he was elected to the United States Senate from Iowa. In 1865, he was re-elected to Congress and sat as a judge in the impeachment trial of President Johnson, in which he voted "not guilty." Senator Grimes resigned his seat in 1869, because of failing health, and died at Burlington three years later on February 7, 1872. His inaugural address of December 9, 1854, displays a keen appreciation of the purpose of government and the duties of an executive officer. He declared the greatest object of government is to elevate and ennoble the citizen, and to disseminate intelligence and build up the moral energies of the people. To this end, Governor Grimes advocated an improved system for the state and was the first public officer in Iowa to advocate a district school library for every school district in the state.



**Samuel Jordan Kirkwood** was elected Governor of Iowa at a time when national issues were of so great importance as to overshadow local affairs in the states, and he is generally referred to as Iowa's War Governor. Kirkwood was a native of Harford County, Maryland, where he was born on December 20, 1813. His ancestors were of sturdy Scotch-Irish stock and his grandfather showed his patriotic spirit by enlisting in the Revolutionary War on the American side. In 1835, the Kirkwoods moved to Ohio, where Samuel worked on the farm in summer and taught rural schools in winter. He began the study of law when twenty-eight years old and two years later began the practice of law. In 1850, Mr. Kirkwood was chosen a member of the convention that framed a new Constitution for the State of Ohio. In 1855, he moved to Iowa and settled in Johnson County, where he deserted the law practice and engaged in farming and business. Besides having interest in a large farm, he owned a mill at Coralville and a store in Iowa City. In 1856, when the Republican party was first organized in Iowa, Mr. Kirkwood was a prominent member in the convention held at Iowa City, on February 22. Later in the same year he was elected to the State Senate and was re-elected in 1858. In 1859, he was chosen Governor by the Republican party and re-elected in 1861. In 1866, he was chosen United States Senator from Iowa to fill a vacancy of two years. In 1876, he was chosen by the legislature for the full term of six years, but was called to serve as Secretary of the Interior in President Garfield's cabinet in 1881. Soon after the death of Garfield he left the cabinet and retired to private life in Iowa City, where he died in 1894.

Governor Kirkwood was almost continually in public life for a quarter of a century, and no other man in the state ever enjoyed higher esteem or confidence than he did. During his two terms as Governor he organized and sent

to the war more than sixty thousand citizen soldiers. In his first inaugural of January 11, 1860, he stated in emphatic terms his opinion on the subjects of states rights and slavery. In fact, his message was considered by the legislature to be radical and too expressive of his personal views on current questions, and the Senate passed a resolution protesting against a part of his message. His messages following at the regular and special sessions during the following three years show Governor Kirkwood to have been a man of good judgment and of clear conception of the grave questions facing the Nation and the states during the great Civil War.

**John Henry Gear**, who was born in Ithaca, New York, on April 7, 1825, was another Iowa Governor who later attained to national prominence. He had very slight educational advantages in his youth and gained most of his training by his own diligent study. In 1836, the Gear family moved to Galena, Illinois, where they lived for two years, when the father was appointed chaplain in the regular army and moved his family to Fort Snelling, Minnesota. In 1846, John Henry Gear journeyed by boat down the Mississippi River to Burlington, where he secured work, first as a farm hand, and later as clerk in a store. In 1850, he engaged in the mercantile business and continued a merchant up to the time of his more extensive public life. Mr. Gear was chosen Mayor of Burlington, in 1863, and was elected by the Republicans to the lower House in the fourteenth general assembly. He served three terms in succession and during the fifteenth and sixteenth assemblies served as Speaker. In 1877, he was elected Governor of the state on the Republican ticket and served two terms. In 1886, he was elected to the lower House of Congress and served two terms, during the last term of which he was a member of the Committee of Ways and

Means. He was appointed Assistant Secretary of the Treasury by President Benjamin Harrison and resigned in 1892 to again take a seat in the Fifty-third Congress. He was a delegate to the Republican National Convention that nominated Harrison in 1892, and to the one that nominated McKinley in 1896. In 1895, Mr. Gear was elected by the state legislature to be United States Senator from Iowa and was re-elected to that office in 1901. His second term had not yet begun when he suddenly died, on July 14, 1901, in the city of Washington.

Mr. Gear was a man of sterling qualities and brought to the services of the state that executive ability that had made him successful in his self-reliant life. In his first inaugural address he favored the remonetization of silver and making it legal tender. He advocated larger appropriations for the educational, charitable and penal institutions of the state. All of his messages gave careful attention to education and its improvement, and he was among the earliest state officials to urge compulsory education in Iowa. As a federal officer his record in the Senate of the United States was that of a painstaking statesman, conservative and able.

**William Larrabee** was born in Ledyard, Connecticut, on January 20, 1832. His father was a graduate of West Point Military Academy and served with distinction in the War of 1812. The son William attended the common schools of his native state and at the age of nineteen years became a teacher. In 1853, he came to Iowa, settling in Clayton County, where he resumed teaching. He became interested in farming and later was owner and operator of the Clermont Mills in Fayette County. He soon became a large land owner and later gave most of his time to banking. In 1867, he was elected State Senator from Fayette County and remained in that office by successive

re-elections for eighteen years. This long period of service made him a well-informed legislator and his influence was felt in the shaping of the legislation of the time. In 1881, he was a candidate before the Republican State Convention for Governor, but was not nominated. Four years later, he was elected to the governorship and two years after was re-elected. His administration is characterized as among the strongest in the history of the state. He urged and secured legislation regulating railroad transportation throughout the state and advanced the prohibition of the liquor traffic.

Mr. Larrabee's public career did not end with his second term as Governor. He traveled extensively in Europe and made a careful study of railroads and their management. In 1893, he published an able work, the "Railroad Question." When the State Board of Control for the management of state institutions was created, Mr. Larrabee was appointed a member and was chosen by the Board to be its president. In 1902, he was chosen Chairman of the Iowa Commission of the Louisiana Purchase Exposition.

**Horace Boies**, the thirteenth Governor of Iowa, was born in Erie County, New York, on December 7, 1827. The father was a farmer and the son worked on his father's farm and attended the common schools of his native state. Later he began the study of law and soon opened a law office in Hamburg, a town near Buffalo. In the year 1855, he was elected to the New York Legislature on the Republican ticket. In 1856, he left New York State and came to Iowa, settling at Waterloo. His law practice was supplemented with agricultural interests and he soon became a large land owner. In 1880, Mr. Boies left the Republican Party, not feeling longer able to support the party's principles relating to protection, and to questions of local

importance. In 1889, he was nominated by the Democratic Party as candidate for Governor and carried the election by a large plurality. He thus had the distinction of being the first Democratic Governor in Iowa since Stephen Hempstead in 1850. He was re-elected for a second term in 1891, but by 1893, the Republicans, having modified their platform on local issues, were victorious at the polls, and Mr. Boies was defeated for a third term. He remained a leader in politics for several years and was in 1896 a candidate before the Democratic National Convention for President, but was defeated after receiving a very complimentary vote. Since that time he has given much attention to the care and improvement of his farms.

**Leslie Mortier Shaw** was born at Morristown, Vermont, November 2, 1848. He received his early education in the common schools of Vermont and at the academy at Morristown. His father moved to Iowa in 1869, and the son entered Cornell College, from which he graduated in 1874. Two years later he completed the law course in the Iowa College of Law. He soon after settled at Dennison, and later engaged in banking. In 1896, he became active in politics for the first time and made many campaign speeches during the campaign and election of President McKinley. In 1897, Mr. Shaw was elected Governor of Iowa and was re-elected in 1899. At the close of his second term in 1902, he was appointed by President Roosevelt to fill the office of Secretary of the United States Treasury, which office he held for five years. Since that time, Mr. Shaw has given his attention to business interests in New York City.

Governor Shaw was an earnest advocate of the gold standard in the National campaigns of 1896 and 1900 and was recognized as a political orator of great ability. It was largely through the reputation then gained that he was



later called to serve in the President's cabinet. His messages as Governor of Iowa are logical statements of the existing conditions of the time, and sound in their recommendations of the needs of the state.

**Albert Baird Cummins**, the eighteenth Governor of Iowa, was born in Pennsylvania, February 15, 1850, and was of Scotch-Irish ancestry. He attended Waynesburg Academy, from which he graduated in 1869. He then moved to Elkader County, Iowa. He was, in turn, clerk in the county recorder's office, carpenter, railway express clerk and deputy surveyor, and was for a time the engineer in charge of the location and construction of the Northern Central Michigan Railroad. In 1873, he began the study of law in Chicago, and was admitted to the bar in January, 1875. In January, 1878, he removed to Des Moines, Iowa, and formed a law partnership with his brother. He soon attained a leadership at the bar and was elected president of the Polk County Bar Association, in 1890. He was a member of the Twenty-second General Assembly and served there two terms. He was temporary Chairman of the Iowa Republican State Convention in 1892, and was the same year chosen elector at large from the state. In 1896, he was a delegate to the National Convention at St. Louis and was elected National committeeman for four years.

In 1902, Mr. Cummins was elected Governor of Iowa, and was re-elected for a second and a third term, thus serving longer than any other Governor the state has yet had.

With the death of United States Senator Allison, in 1908, Mr. Cummins was chosen by the legislature to fill out the unexpired term, and was elected for the full term as United States Senator in 1909. Since that time, Senator Cummins has risen rapidly in prominence as a member of the



upper House of the National Legislature and was, in 1912, mentioned as a candidate for President.

### QUESTIONS

1. Who was the first territorial governor of Iowa? Who the first state **governor**?
2. Give the **names** of the five most important governors of Iowa. State the reasons for your choice.
3. In what respects are the duties of the governor like those of the President?
4. For what is the governor most noted in Iowa?
5. How many of Iowa's governors have been Democrats and how many Republicans?
6. How many political parties presented candidates for governor at the last election?
7. Which of Iowa's governors have been natives of the state?
8. Name ten Iowa men prominent in public life at present.

## CHAPTER VI.

### GOVERNMENTAL UNITS AND LOCAL DIVISIONS

**The first essential** in the study of government is that the student realize his relationship to the different units exercising authority over him. The strict enforcement of law is the safeguard of the liberties of the people under a republican form of government. Whenever two or more persons are associated together we find law necessary, for law defines the rights of each and protects each against the wrong-doing of the other. Law is not evil but good. The fact that law forbids A the right to steal B's horse is of equal benefit to A, for it also forbids B the right to steal A's horse. As the life of our people becomes more complex, so also must our laws become more complex and more detailed in their provisions. Before we had railroads in Iowa we had no need of laws governing their operation. Before automobiles were invented we had no thought of enacting laws regulating the speed at which they could be driven through the streets. If airships become practical in their use our state legislature will be required to enact laws governing their operation. So we find law is not something imposed upon the people, but rather it is that which the people agree to as the best means of securing their liberties and guarding their rights. Government may be variously defined. It is in fact the administration of law. "It is the organized means and power that a state or nation employs for the purpose of securing the rights of the people and of perpetuating its own existence."

If we look about us we soon find that the rules governing

our conduct come from different sources. A pupil wishing to go to school is allowed to attend in one district but not in another. If one member of a family has a contagious disease other members of the family are not permitted to receive visitors so as to expose them to the disease of the sick member. If one lives in the country he is not required to shovel snow from the public highway, but if he lives in the city he may be compelled to clear the sidewalk of snow. Long bridges often contain signboards warning drivers not to drive faster than a walk over the bridge. If one man steals from another he may be arrested and fined or imprisoned. If we deface a silver coin, or if we counterfeit the money of the United States, we may be punished by fine or imprisonment, or by both. It is plain to see that while each of these offenses is punishable by law, the law is not always enacted or enforced by the same authority.

**Units of Government.** The fact is, we have different units of government, each active within its sphere to enforce the law and to protect the rights of the people. The lowest unit in this process of government is the school corporation, or school township. Next above the school township is the civil township. Then we have the municipality, which includes the government of towns and cities. The fourth unit of government is the county, which may be said to be a collection of civil townships. Then next higher is the state, consisting of a number of counties, and highest of all is the United States, which in turn is a collection of all the states. The individual citizen is subject to the authority of each of these units of government, and each unit has a claim on him for obedience to its governing rules. In turn the individual citizen is a part of each unit and has power to help govern and control the affairs in it.

**Relation of Local Units.** All of these four local units are political sub-divisions of the state. In some respects each

is supreme within its own sphere of action and constitutes a body politic with a complete scheme of government. A school corporation has its own officers, it is a legal entity and may sue and be sued in the courts. It has original jurisdiction over school matters arising within its area. Its officers and voters make rules governing school organization and determine the amount of taxes to be paid for educational purposes. The civil township is another body politic, with a government of its own and officers to administer the laws. The township trustees are the legislature for the township. They constitute a Board of Health and may establish quarantines and make laws governing sanitary conditions. They act as a Board of Review for taxable property and may raise or lower taxes, subject only to the right of appeal to the district court. Here we find a second authority acting over the individual citizen and to a certain extent overlapping the authority of the school corporation. People living in towns and cities find themselves subject to still another authority because they are within the jurisdiction of another governmental unit. The inhabitants of these municipalities are as much subject to the laws of the school corporation and to the laws of the civil township as other people not living in the town or city, but the people living in the town or city have still another governmental authority over them. Towns and cities are also corporations and have powers to make and enforce laws. They furthermore have power to enact rules and regulations not made by any other political body. A person living in a town or city may be restrained from doing many things that are permitted to persons living in a rural community. The county is the highest of the local units of government, and the citizen owes obedience to the authority of the county as well as he does to that of the city, township or school corporation. The county is in turn a higher unit of government than the township and again has

its own officers and its higher sphere of jurisdiction. Our state is divided into counties, and no matter where a person lives within the state he cannot escape the authority of the county. The county supervisors constitute the county legislature and may make laws governing matters not within the jurisdiction of the lower units of government.

**Relation of Local Units to the State.** We found each of the local units in the ascending scale exercising larger authority than the one lower down, and that each higher unit had a certain amount of authority over the unit below it. The state is but another unit in the ascending order of government. It must be remembered, however, that the state exercises a much greater authority than any of the local units and claims from the individual citizen a much greater share of obedience. The local units of government derive their powers from the Constitution and laws of the state. The state legislature, in accordance with the Constitution of the state, may increase or diminish the authority and powers of any of the local units. Counties were organized and established by acts of the legislature. Towns and cities were chartered and their rights and powers designated by legislative enactment. Townships and school corporations are established and governed according to laws made by the state legislature. All of the local units are administrators of state law rather than legislators for their own units. Even the officers of local units are not entirely local in their authority and power. A justice of the peace in a township may try petty offenses against the laws of the state, and county attorneys are the prosecutors of all criminal offenses committed against the laws of the state in the counties in which they are elected. Both of these officers are elected by the voters of the counties and the townships and are generally considered county and township officers, although they are in the broad sense

state officers as well. In many respects the states exercise a much larger authority over the individual citizen than does the United States.

**Relation to the Federal Government.** There is yet another unit of government exercising authority over the individual citizen — it is the Federal Government. The citizen who gives obedience to the school corporation, to the civil township, to the city, the county and the state, is also bound by a still higher administrative power — the government of the United States. The Federal authority does not overlap the authority of the state, but it makes provision for those activities not coming within the jurisdiction of the states. When the Constitution of the United States was framed in 1787, certain powers were given to Congress alone. Many of these powers affect the individual citizen directly. The Federal Government requires that every letter contain a postage stamp, and if any person counterfeits the money or securities of the United States he is subject to severe punishment by the Federal authority.

When we think of government as a whole, it seems very complex and difficult to understand, but when considered in separate units, it becomes simple and easy of comprehension. A thorough study of local and state government gives a good foundation for the better understanding of the government of the United States.

**Boundaries of Local Areas.** The study of local government centers about these different physical areas we have called units of government. A school corporation has a definite area and fixed boundary line, subject to change by proper authority. Cities and towns are incorporated under laws of the state which determine their boundaries and the conditions under which they may be changed. Many of the counties were organized and laid out while Iowa was yet a territory. The legislature has the right



to organize new counties. Previous to the revision of the Constitution in 1857, the legislature was unlimited in its power to establish new counties, and as a result we find some counties in Iowa more than double the area of others. The revised constitution provided that "no new county shall hereafter be created containing less than four hundred and thirty-two square miles." The township boundary is of a different origin and is based upon what is known as the Congressional township and upon the so-called Congressional Survey.

**The Congressional Township** had its origin in the land ordinance passed by Congress in 1785. This act of the Congress of the Confederation served the double purpose of locating lands and furnishing boundaries for local governments. It provided a system of government survey for the new territory belonging to the United States at the close of the Revolution. This Congressional survey did not apply to the land of the original thirteen states nor to Tennessee or Kentucky, as all these states were already surveyed and recorded under the old colonial system copied from England. Texas came into the Union with a system of its own taken from the Spanish system.

**How Surveys are Made.** Any meridian of longitude may be selected as a starting point. Generally a meridian in the immediate territory is selected. This meridian line, running north and south, is called a "principal meridian." At some convenient point on this principal meridian a line is drawn intersecting it at right angles and located on a parallel of latitude. This cross line is termed a "base line." Other lines are run parallel to the base line and six miles apart. Other lines are also run parallel to the principal meridian six miles apart. Thus the entire country is covered with a network of squares six miles on

the sides and containing thirty-six square miles, which are called Congressional townships. Townships are designated by giving them numbers north or south of the base line and numbering them in ranges east or west of the principal meridian. Beginning at the intersection of the base line with the principal meridian, the square area of land just north of the base line and just west of the principal meridian is known as Township 1 north, range 1 west of the fifth principal meridian. Township A is located as Township 8 north, range 5 west of the fifth principal meridian. Township B is located as Township 6 north, range 3 east of the fifth principal meridian. Principal meridians and base lines are not located in accordance with any fixed system. In some instances they are near together and in others they are far apart. There are twenty-four principal meridians in the United States, six of them being known by numbers while the remainder are designated by names. The first principal meridian was established on the border line between the states of Ohio and Indiana, the second in Indiana, the third and the fourth in Illinois. The lands of Arkansas, Missouri, Iowa, Minnesota, and a part of the Dakotas are surveyed from the fifth principal meridian, which is located at the junction of the Arkansas with the Mississippi River. The base line crossing the fifth principal meridian is located at the junction of the St. Francis with the Mississippi River in Arkansas and runs near the city of Little Rock. All lands in the United States were not surveyed at the same time and as each new district was surveyed a new meridian was generally established. This accounts for so many meridians and the irregularity in their location.

Each township is six miles square and contains 23,040 acres of land. This area is too large for practical purposes and so the township is further divided into thirty-six squares by section lines drawn one mile apart each way. These

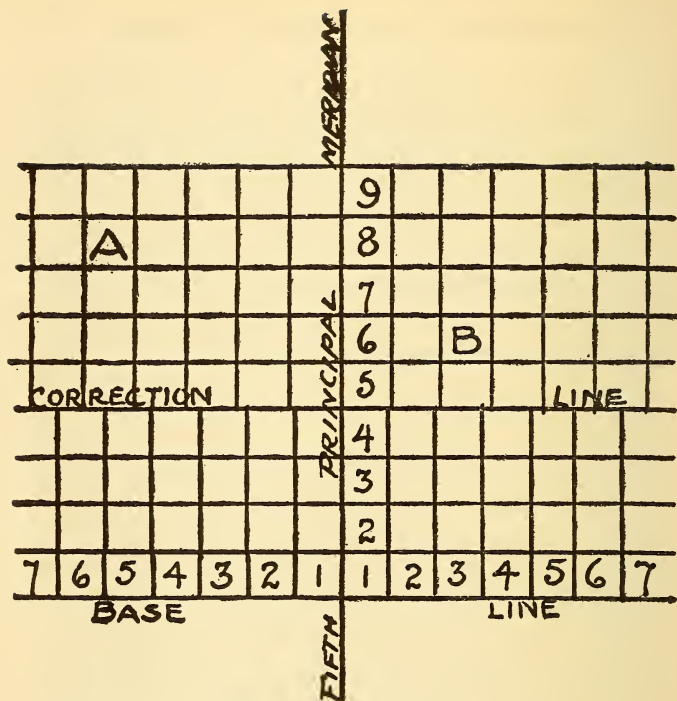


Fig. 1

6	5	4	3	2	1
7	8	9	10	11	12
18	17	16	15	14	13
19	20	21	22	23	24
30	29	28	27	26	25
31	32	33	34	35	36

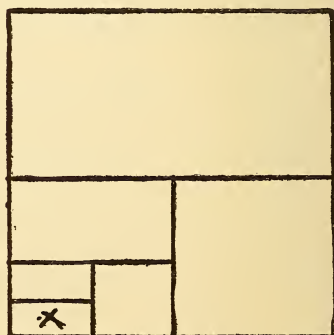


Fig. 2

squares are called sections and contain an area of one square mile or six hundred forty acres of land. The sections are divided into quarter-sections and each quarter may be again divided to such extent as is necessary. In Fig. 2, we have Township 8 north, range 5 west of the fifth principal meridian. The township is divided into thirty-six sections. The method of numbering the sections in a township, beginning in the upper right-hand corner, is to be noticed. The second part of the figure is Section 20 of that Congressional township divided into quarters and then into smaller divisions. The part X is located and described as follows: the south  $\frac{1}{2}$  of the southwest  $\frac{1}{4}$  of the southwest  $\frac{1}{4}$  of Section 20, Township 8 north, range 5 west, of the fifth principal meridian. This tract of land is eighty rods long and forty rods wide and contains twenty acres. The superiority of this system of survey is the exactness by which a small piece of land may be located. A person coming to this country from a foreign land could be directed to this field of twenty acres without further information than the above given description of its location.

**Method of Record.** The regular method of designating land areas on legal instruments, such as deeds, is to abbreviate the terms used. The manner of describing the twenty acre tract above mentioned would be — The S.  $\frac{1}{2}$  of SW.  $\frac{1}{4}$  of SW.  $\frac{1}{4}$  of Section 20, Twp. 8 N., R. 5 W. of 5th P.M. In locating a tract of land from the description given, we must begin with the last of the descriptive statement and work backward. In the above description we first turn to the map and locate the fifth principal meridian and its base line, then counting north from the base line and west from the meridian we locate the township; the section is then easily found from its number; then we look for the southwest quarter of the section; we

next look for the southwest quarter of that quarter; finally for the south half of the last southwest quarter. A little practice will soon enable one to trace land tracts and determine the number of acres with accuracy.

**Correction Lines.** We learn in geography that meridians converge or come together as they proceed from the equator toward the poles. Therefore if two lines are drawn due north from two points on a parallel a distance apart they will come nearer together as they extend northward. In the latitude of Iowa, two lines, starting six miles apart and running due north six miles, will be three rods nearer together than at the starting point. If extended a greater distance the difference is still more — at thirty miles two lines will be fifteen rods nearer together. Townships being bounded by lines running due north are square only in theory. The fact is that all townships are narrower on the north side than on the south side. Only those townships laid out on a base line are exactly six miles on the south side. In order to prevent this converging of the east and west boundaries of townships from destroying the system surveyors run “substitute” base lines called “correction lines.” A correction line serves the same purpose as a new base line and the townships laid out on this correction line start again with a south boundary of exactly six miles. This correction makes a jog in the lines running north and accounts for the slight turns in roads following such lines. This difference increases as we proceed along the correction line east or west from the meridian.

It will not be out of place here to define what we mean by a Congressional township. It is “an area six miles square used for the purpose of locating land and forming the boundaries of local units of government.” It differs from a civil township and from a school township in that they

are units in which civil government is carried out. A Congressional township has no political status. It has no officers or institutions, but is merely a physical division for the purpose of locating and measuring lands.

## QUESTIONS

1. Under which plan of government does the individual enjoy the greatest amount of liberty — where laws are strictly enforced or where they are not?

2. Explain how one person is responsible to all of the different units of government.

3. In what way is the state related to the Federal Government?

4. Define the term, "Congressional township."

5. What is meant by *recording* a deed?

6. Why is the present system of measuring and locating lands known as the "Congressional survey"?

7. Do the boundaries of Congressional and civil townships always correspond?

8. Locate the larger cities of Iowa on the map by the survey system.

9. Give the exact location, by township and range, of Iowa City, Ames and Cedar Falls.

10. How are lands surveyed and designated in a state, as Massachusetts, where the Congressional survey does not apply?



## CHAPTER VII.

### THE CIVIL TOWNSHIP

**A Civil Township** is an area of land the boundaries of which may or may not coincide with those of a Congressional township, and is used for the administration of local government. The boundaries of the civil township follow those of the Congressional township unless intercepted by deep rivers, or high impassable hills, such as would inconvenience the people in reaching their voting places or in transacting other township business. The chief object of the civil township as a unit of local government is for the holding of elections, listing of property, equalizing taxes, repairing roads, giving relief to the poor, and for conducting other local business. The local affairs of the township are administered by the following officers: three trustees, one clerk, two constables, two justices of the peace, and one assessor. Justices and constables are in a certain sense county officers, yet are elected by the township. All township officers are chosen for a period of two years by the qualified voters of the township at the November election.

**Duties of Township Trustees.** The trustees are entrusted with the following important matters: 1, taxes; 2, public highways; 3, elections; 4, health; 5, poor; 6, fences; 7, public money; 8, public buildings; 9, public grounds. The office of trustee, like other township offices, is not eagerly sought by the average citizen, and it is often difficult to find men in the township who are

willing to give their time and attention overseeing the affairs of the township. The legislature has imposed a penalty of five dollars upon any person who, having been elected to a township office, refuses to qualify and serve — but no person is required to serve two terms in succession. The trustees have three regular meetings each year — the first Monday in February, in April and in November.

**Elections.** The trustees designate a place for holding township elections and the clerk gives notice of the time. The trustees are the election judges and together with the township clerk and another person, who is called clerk of elections, they make a list of all voters in the township. They have charge of the ballot box and register the names of the voters. They count the votes cast for each candidate, and in case of the township officers they declare who is elected. For all other officers they count the votes and send the results to the county supervisors. The trustees have the right to challenge any voter for cause and to demand proof of his qualifications to vote. The votes after being counted are kept by the clerk until after the legal time has elapsed for contesting the election. They are then sent to the county auditor.

**Board of Equalization.** If a tax-payer thinks the assessor has taxed his property unjustly, either too high or too low, he may appeal to the township trustees, who act as a Board of equalization and readjustment of the taxes levied by the township. The trustees meet on the first Monday in April each year for the purpose of revising or correcting the assessors' books. This Board of equalization may lower or raise the assessment complained of, according to their best judgment. If the aggrieved person is unwilling to accept the verdict of the Board of equalization he may appeal to the district court, if the appeal is made within twenty days after the adjournment of the

Board. The power of the Board also extends to the listing of property not listed by the assessor.

**Care of the Poor.** The care and oversight of the poor is the duty of the county supervisors, but the poor of each township are generally cared for by the township trustees. The trustees administer the laws for the care of the poor within the township, but the entire expense is born by the county. If persons unable to provide for themselves move from one county to another they may be warned to return to their former home, but such warning must be given within a year of their arrival. If such person is in the county a full year before asking aid, he thereby gains "settlement" and the county is bound to support him. Aid is given to the poor in different ways. Almost all counties maintain a county farm or poorhouse, in which any deserving person may be cared for. The trustees may also give deserving persons assistance with money, food, clothes and medical attention in their homes. When a person is returned to the county from which he recently came it may be done at the expense of that county. If the trustees refuse aid to an applicant he may apply to the county supervisors, who may either aid him or order the township trustees to do so. All statements of expenses, whether issued by the trustees or by the supervisors, are sent to the county auditor. Near relatives of disabled persons may be required by law to care for them, and if the relatives refuse, the trustees or supervisors may bring action in the district court to compel them to do so.

**Highways.** Another duty of the township trustees is to care for the public roads. The road-tax is collected by the county treasurer and is given over to the township clerk. The law requires that all able-bodied male residents of the township, between the ages of twenty-one and forty-five years, give two days' labor on the roads each

year. The trustees direct the expenditure of both the labor thus owing to the township and of the money raised by road-tax. Since 1903 each township constitutes one road district under the control of one or more road superintendents appointed by the trustees. Persons owing road service and road-tax to the township may pay either in labor or in money, or in both.

**Health Officers.** As health officers the trustees may pass regulations concerning nuisances and contagious diseases; they may require persons to be vaccinated; they may post notices of quarantine; they may require the removal of filth deemed to be injurious to health; they may adopt rules for the preservation of the health of the community, and enforce such rules by fines and imprisonment.

**Miscellaneous Duties of Trustees.** Several other duties are required of trustees, as the reports made to the county supervisors each year of public money expended; caring for township hall or other public buildings belonging to the township; viewing fences to determine whether legally constructed; assessing damages in case of trespassing of animals; providing and keeping up cemeteries; filling vacancies in the offices of justice of the peace and of constable; seizing property of persons deserting poor relatives.

**The Township Clerk.** The township clerk is the secretary of the Board of trustees and records the minutes of all their meetings. His records show the transactions of the trustees as election canvassers, health officers, and tax reviewers. He is the township treasurer and must give bonds to secure the township against loss. He must on each general election day post in a public place a statement, certified to by the trustees, of all moneys received and expended during the past two years. The clerk pre-

pare from the assessment book a list of all persons required to pay poll-tax and furnishes a copy to the road superintendent. If the road superintendent does not collect all the tax he reports the delinquencies to the clerk, who in turn reports them to the county auditor before the second Monday in November. This tax is then collected by the county treasurer and paid over to the township clerk. The clerk administers the oath of office to other township officers. He posts notices of the result of township elections and notifies the county auditor of the persons elected. He receives and records the resignations of township officers, and his own resignation he gives to the Board of trustees. If a tie vote is cast for township officers, the clerk has the candidates appear before him and decide the case by lot. He has charge of all the material property of the township, such as books, records, and road machinery.

**Justices of the Peace.** Each township is entitled to two justices of the peace. They have power to try petty cases in both civil and criminal matters. They have jurisdiction over criminal cases involving not more than thirty days' imprisonment, or a fine of one hundred dollars, and over civil cases where the value in controversy does not exceed one hundred dollars, or, with the consent of both parties, the amount may be three hundred dollars. No record of the proceedings is kept except names of cases tried. A justice's court may have a jury of six men. He also has the power to hold inquests over dead bodies instead of the coroner; he may acknowledge deeds and mortgages; he must keep a record of estray stock taken up and advertised; he may perform marriage ceremonies.

**Constables.** Each township is entitled to two constables, who serve as peace officers. Together with marshals, police officers, sheriffs and deputy sheriffs, they are peace



officers of the state as well as of the county and township. It is their duty to quell riots, to prevent crimes, to make arrests, and to serve the justice of the peace when he holds court. Constables serve warrants for arrests and to search property, and all notices legally directed to them by the trustees, clerk of the township, or the court of the county. The constable subpœnas witnesses, selects jurymen, makes arrests and does whatever the justice's court orders him to do. A private citizen may, without a warrant, arrest and take before a magistrate any person committing a crime in his presence; or if he knows that a felony or a crime punishable with confinement in a state prison has been committed, a private person may arrest, without a warrant, a person who he has reasons to believe committed the crime.

**Assessor.** Each township has one assessor. His chief duties are: to make a list of all taxpayers of the township and to fix the value of all property assessed by him; to make out a complete list of the voters of the township and give a certified copy of the same to the township clerk; to furnish the county auditor a list of all persons between the ages of eighteen and forty-five who are not exempt from military duties; to make a list of the children of deceased soldiers; and once in ten years to take the census of the county.

Each taxpayer is required by law to assist the assessor to make a complete list of the property he possesses. The taxpayer must make oath or affirmation that he has rendered a correct statement of all his property. For this purpose the assessor receives from the county auditor two assessment books to be kept in duplicate. In these books he lists the names of persons and a statement of their property, both real and personal, and the assessed value of the same. The assessor returns one of these books to the township



trustees for examination, and for the purpose of equalizing taxes among the individuals of the township. The other book he returns to the county auditor as clerk of the Board of supervisors, who receives the books from all townships, compares the taxes as reported in them and equalizes the assessment between the townships.

**Compensation of Officers.** Township officers are usually paid according to three different methods—fees, *per diem*, and per cent. For regular official business the trustees receive two dollars per day each; for assessing damages, one dollar each; for viewing fences or locating ditch or drain, they are paid by the party having the work done. For regular official business the trustees are paid out of the county treasury. The township clerk receives for regular official business two dollars per day; for filing certain papers fifty cents each; for all money officially committed to him, five percent; for other work done his pay is regulated by the Board of supervisors. The assessor receives a compensation not to exceed two dollars per day. Justices of the peace are paid by fees fixed by law and they usually receive fifty cents each for serving warrants or issuing other documents. Constables are paid by fees ranging from ten cents to one dollar, besides traveling fees of five cents per mile going and returning by the nearest traveled route.

## QUESTIONS

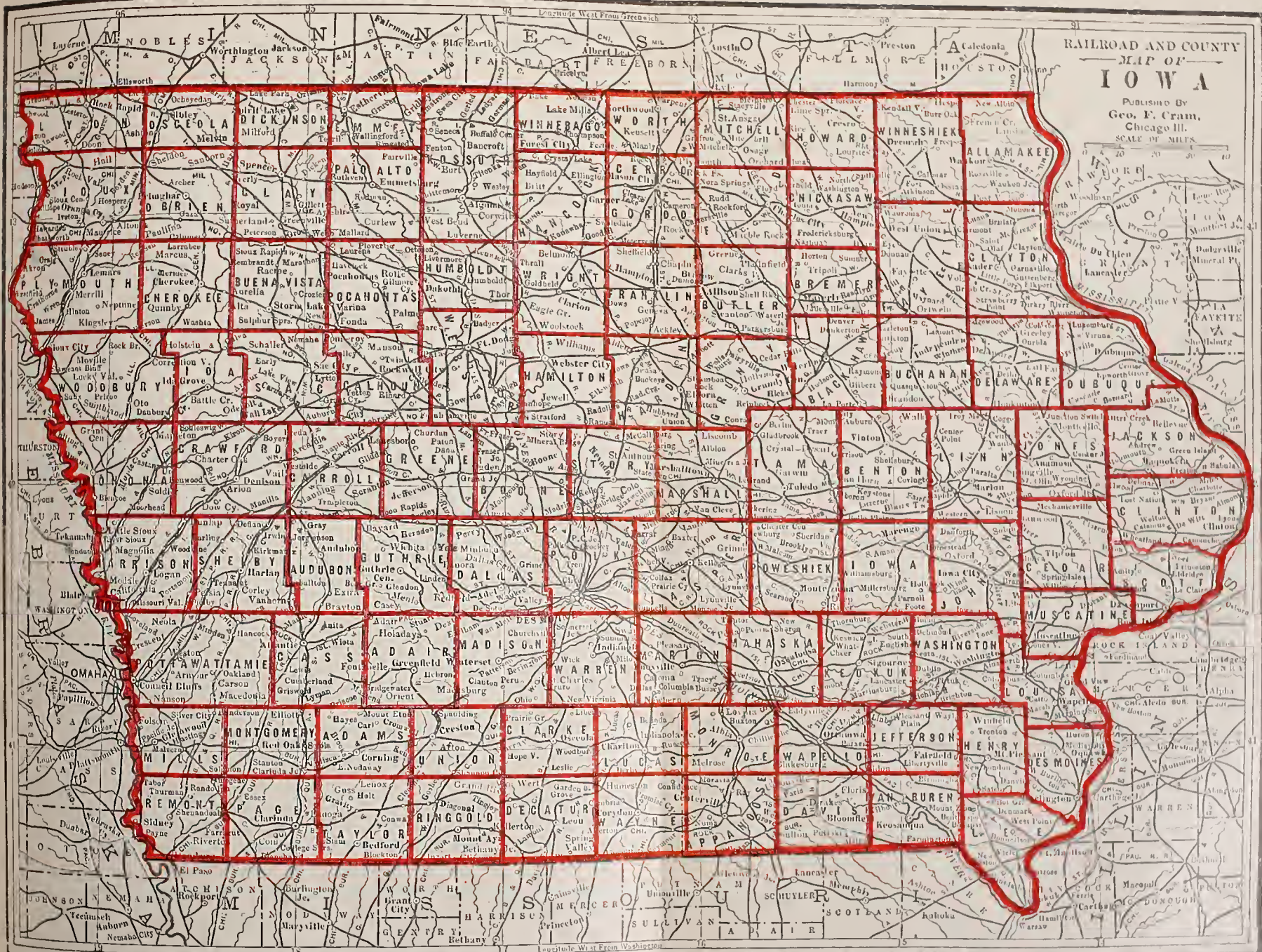
1. Distinguish between a civil and a congressional township.
2. Why do many men dislike to hold township offices?
3. Enumerate the duties of the township trustees.
4. Should the poor and the insane be cared for in the same county home?
5. Is there any charity organization in this county for the care of the poor?
6. Name the different township officers.







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## CHAPTER VIII.

### THE COUNTY

**A County** is a subdivision of the state for the purpose of civil government. In Iowa there are ninety-nine counties. The earliest organized counties, including Des Moines and Dubuque in 1834, were established while Iowa was yet a part of Michigan Territory. The entire eastern part of the state was organized into counties by 1837. Several counties were established under the territorial government of Iowa — 1836-46. The Constitution of the state gave the legislature the power to establish new counties, and as amended in 1857 it provided that "no county shall hereafter be created containing less than 432 square miles." Fifty-two counties are rectangular in form, with areas from 432 to 576 square miles in each, and contain from twelve to sixteen congressional townships. The remaining counties, located mostly along the Mississippi and Missouri Rivers, are irregular in form and vary in area. The state legislature has power to enact uniform legislation governing counties in Iowa, except in so far as the constitution has placed limitations upon the legislature in matters such as changing the boundaries, locating county seats, and allowing counties to contract debts. Boundaries between counties can only be changed with the consent of a majority of the voters of the counties affected and with the consent of the legislature.

The county offices are located and the business of the county is transacted at the county seat, a town or city



located generally near the center of the county. The county capital, or the county seat, cannot be changed to another town unless a majority of the legal voters sign a petition to the supervisors of the county, who, upon receiving such petition, order an election. If at an election a majority of all votes cast is in favor of removal, the county seat is moved.

**County Officers.** The officers of a county are as follows: a Board of supervisors, consisting of three, five, or seven, the number being determined by the will of the voters of the county and not by its population or its size; an auditor, a treasurer, a recorder, a clerk of the district court, a county attorney, a sheriff, a superintendent of public instruction, a coroner, and an engineer. A county often has a Board on uniform text books, and such other temporary committees as may be necessary. All county officers except supervisors are elected for two years by the qualified voters; the supervisors serve three years. Notaries public are also found in every town and village. They are appointed by the governor and hold their commissions for three years.

**County Supervisors.** The Board of supervisors constitute the legislature of the county, and are the business managers of the county who have an oversight over all county officers. They may be chosen by the electors of the county on a general ticket, or the county may be divided into supervisor districts, one for each member. When the former method is used, no two supervisors can be chosen from the same civil township. In using the latter method the electors of each district vote for one supervisor from that district. The duties of the supervisors are varied and numerous and they hold five regular meetings each year, and such special meetings as the business of the county may require. All regular meetings are

held at the county seat and occur on the first Monday after the general election each year and on the first Monday of January, April, June and September. The majority of the Board constitutes a quorum and may request a special meeting. The Board chooses its own chairman, who presides over the meetings and votes as any other member. Executive and legislative powers are not so clearly separated in the county as in the state and the county supervisors exercise both legislative and administrative functions. The powers and duties of the supervisors are determined by the state legislature and they may be expanded or contracted as the legislature may consider wise.

**Powers and Duties of Supervisors.** The powers and duties of the Board of supervisors are such as to give them the entire control of the affairs of the county subject only to the state legislature. Their chief powers include the following: to establish, organize and name townships; to provide the necessary buildings for the use of the county and the courts; to examine and settle all accounts of the receipts and expenditures of the county; to examine and settle claims against the county; to pass resolutions relative to the property of the county; to determine the salary of other county officers, to fix the bond of each and to determine the oath of office, as not otherwise fixed by law; to provide for the erection of county bridges and their repair; to locate all public highways; to determine the amount of tax for county purposes; to act as a Board of equalization between townships; to canvass the election returns reported from the townships; to care for the poor and to erect and care for the county farm.

**County Buildings.** The supervisors have charge of the erection, repair and care of county buildings, including a district court-house, a jail, a home for the poor and offices

for county officials. If in building a court-house, jail, or bridge, the supervisors decide to expend more than \$5000, they must first secure the approval of a majority of the voters of the county. If in purchasing land for the county, they expend more than \$2000, they must have the consent of the voters. These requirements depend largely upon the population of the county, and in populous counties, the supervisors may expend \$10,000, or even \$15,000, without a vote of the people.

**Care of the Poor.** The care of the poor is the duty of the county supervisors, but the exercise of the power is often given to the township trustees. Temporary needs are generally met by the trustees, while those requiring permanent aid are cared for by the supervisors. The entire expense of the care of the poor is paid by the county. The supervisors administer aid by maintaining a county home or poor-farm under the charge of a steward. The supervisors may offer to the lowest bidder the care of poor people, or they may give them such food, medicine and clothing as they need in times of suffering. When paupers are sent to the county farm they are expected to contribute to their own support by such work as they are able to do. The insane of each county are sent to the state hospitals for treatment at the expense of the county, unless the relatives are able to pay. Each county has a commission of insanity, consisting of the clerk of the district court, and a physician and a lawyer appointed by the district judge. This commission determines the disposition of insane persons. In many counties the incurable insane are returned from the state hospitals to the county farms, where they are cared for.

**The Auditor.** The Auditor is the secretary of the county in all of its business transactions through the Board of supervisors. He keeps the minutes of all meetings

of the supervisors, executes the orders of the Board, and records such matters as pertain to the county and sees that the minutes are published in some newspaper of the county. He has general custody of county property and buildings subject to the orders of the supervisors. The code of Iowa enumerates his duties as follows: "Record all proceedings of the Board in proper books provided for that purpose; make full entries of all its resolutions and decisions on all questions concerning the raising of money, and for the payment of money from the county treasury; sign all orders of the Board for the payment of money, and record in a book provided for that purpose, the reports of the county treasurer of the receipts and disbursements of the county; preserve and file all accounts acted upon by the Board, with its action thereon, and perform such special duties as are or may be required of him by law; to deliver to any person who may demand it a certified copy of any record or account in his office, on payment of his legal fees therefore." The auditor furnishes the poll-books for elections and prepares the official ballot for the county. The election judges of the various precincts make their returns to him. Copies of the assessors' books from every township and town of the county are filed with the auditor after being corrected by the Board of equalization. He also keeps a record of all the taxes voted in the school districts, townships, towns and county, and of the state tax to be collected in the county. He issues certificates of election to county officers and holds their bonds. Resignations from township and county officers are made to him. He draws warrants on the county treasurer and his books must always correspond to those of the treasurer in all matters of money records. He estimates the amount of tax to be paid by each taxpayer, and he gives a copy to the county treasurer, which is followed by him in collecting

taxes. The county auditor also loans out the permanent school fund sent to him by the auditor of the state.

The compensation of the auditor is determined according to the population of the county. In counties having less than 10,000 inhabitants he receives \$1200 per year. In counties having between 10,000 and 25,000 inhabitants he receives \$1400. In counties having a population exceeding 25,000 the salary is determined by the Board of Supervisors.

**The Treasurer.** The county treasurer receives and cares for all the money collected by the county. All taxes are paid to him in the treasurer's office or to his deputies in different towns and then sent to the treasury. He receives from the auditor a list of the taxpayers and the amount of tax to be paid by each. He must then collect the taxes within a given time specified by law. It is his duty to keep a separate account with each taxpayer and of each fund that comes into his possession. He pays out money only on warrants signed by the county auditor, and thus each officer's books are a check upon those of the other. The supervisors require a heavy bond from each of these officers to insure the faithful performance of their duties, and the published account of the supervisors' proceedings shows the taxpayer what is done with the county's money. The county treasurer must keep an account of all receipts and disbursements in such form that they may be inspected by the Board of supervisors at any time.

The county treasurer is paid a percentage of the money collected by him together with other fees. If the entire amount exceeds \$1500 per year the balance is returned to the treasury. If the population of the county does not exceed 10,000 the compensation of the treasurer cannot exceed \$1300. If the population exceeds 25,000 the Board of supervisors may add additional compensation above \$1500.



**The Recorder.** The county recorder keeps an exact record of all deeds, mortgages, articles of incorporation and other written instruments which may be delivered to him for record. When lands or houses are sold the person making the sale must render to the purchaser a written instrument called a deed. This deed is evidence that real estate has passed from one person to another, and contains the names of both seller and purchaser, the amount paid, and the amount of land and its location. This deed is presented to the auditor so the taxes may be assessed against the new owner; then it is given to the recorder for record. If the records have been well kept, the recorder's books will show a complete history of the titles of all lands within the county. The first owner of all lands, according to our records, is the United States Government. The first deed given — from the government to an individual — is called a patent. The first owner is assumed to still own the land, unless there is a public record showing the land has come into the possession of another person. An abstract of title to real estate is simply a very brief history of the ownership and transfers from the time the land belonged to the government down to the present owner. A mortgage is a conveyance of property, upon condition, as security for the payment of a debt or the performance of a duty, and to become void upon such payment or performance. Sometimes more than one mortgage is given on the same property, and in such case the mortgage first recorded must be first paid. To record a mortgage is therefore necessary to its full validity.

When a person buys real estate it is necessary to consult four different sources of authority to make sure the purchaser is in full possession of the property. First, it is necessary for the purchaser to consult the books of the county recorder to see if the property is free from



mortgage. The purchaser must also find from the recorder's books if he has a clear title to his property, that is, if he can secure an abstract of title. Third, he must consult the treasurer's books to see if previous owners have paid the taxes as they became due. Fourth, he must consult the records of the clerk of the district court and see if the court has given any judgments against the property.

The office of recorder pays the least salary of all the county offices, and it is one of two county offices frequently filled by women. In counties of less than 25,000 inhabitants the salary is \$1200. In counties over 25,000 people and not exceeding 35,000, it is \$1500, and in counties of 60,000 or over, it is \$2000.

**The Clerk of the District Court.** The county clerk is not the secretary of the county, as the name would signify, for that office is filled by the county auditor. The clerk is the secretary of the district court. All official business transacted by the district court held in the county is recorded by him. He must attend the sessions of the court either in person or by deputy. He makes a record of all suits entered in the court, all notices given, all witnesses subpoenaed, all juries impaneled, all decisions rendered, all judgments made and all executions issued. A judgment given by the court frequently affects the title to real estate. An unpaid judgment may form a lien upon any real estate the party may own or acquire. In all cases the party losing the suit is required to pay the costs.

The court has the authority to appoint executors, administrators and guardians. When the court is not in session the county clerk can appoint these officers. The clerk issues marriage licenses and records the same according to the laws of Iowa governing such licenses. He also records all births and deaths occurring within the county.

The general assembly of 1911 fixed the salary of the county clerk, ranging from \$1100 to \$3300, according to the population of the county. In the counties of 40,000 inhabitants or less, the county supervisors may add an additional sum of from \$300 to \$400.

**The Attorney.** The county attorney is the legal adviser of all county and township officers. Cities of the first and second classes have a city solicitor, who is the legal adviser of city officers and defends cases on behalf of the city. The county attorney prosecutes all cases in which the state is a party when arising either in the justices' court of the township, or in the district court of the county. When a case is appealed from the district court of the county to the supreme court of the state, the Attorney-General may continue the services of the county attorney if he chooses to do so. He assists the grand jury in gaining information and drawing indictments, and since 1911, he may upon his own sworn information prosecute criminal offenses to final judgment in the district or supreme court, if the punishment of such offenses exceeds a fine of \$100 or thirty days' imprisonment.

**The Sheriff.** The office of county sheriff originated in early England. The head executive of the local government, called the Shire, was the Shire-reeve. The English shire corresponds to the American county. In Iowa, the sheriff is primarily the executive officer of the district court. He is subject to the orders of the court and serves all papers issued by the court, such as subpoenas for summoning witnesses, search warrants, and warrants for arrest. He may serve similar papers for lower courts. He attends the sessions of the district court, and it is his duty to open each session of the court each day. This he does in the familiar phrase — "Hear ye! hear ye! the district court of — County is now in session." He executes the judg-

ments of the district court and carries out the orders of the district judge. Disobedience to the commands of the court constitute "contempt of court" and may be punished by fine or imprisonment.

The sheriff is in charge of the county jail and has the custody of all persons committed to it. He may make arrests in his own county, or in another county with the consent of that county. He is the peace officer of the county and may appoint deputies to assist him. He may, in extreme cases, form a posse comitatus to assist in restoring order. His compensation ranges from \$2000 to \$3000 per year, depending on the population of the county. He receives additional fees which he is allowed to collect for various services rendered. He generally is obliged to pay his deputy from the above compensation and fees.

**The Superintendent.** The county superintendent of schools has general oversight of school work in the county. The work of the office is not so extensive as formerly, owing to the fact that the issuing of certificates to teach is now almost entirely in the hands of the State Board of Educational Examiners. This Board makes out the questions for teachers' examinations and the papers are read and graded under the supervision of the state superintendent. The office is very important, however, in the help the superintendent is able to give to the teachers. Beginning with 1915 the county superintendent of schools is appointed by a county board of education to serve three years.

The county superintendent conducts the examination for teachers, and sends the written papers to the Board at Des Moines. He makes recommendations as to the moral character and personal fitness of the applicant to teach. He assists school officials in selecting teachers,

and aids teachers in finding schools. He holds a normal institute each year for the instruction of teachers and he may advise with teachers in appointed meetings as to the best method of teaching. He gives assistance to local officers as to the location of buildings, the planning of buildings, caring for the grounds, and he hears and decides appeals of aggrieved parties concerning lands, or in matters of school discipline. An appeal may be taken from the decision of the county superintendent to the state superintendent in certain matters. The salary of the county superintendent is \$1500 per year, and the representatives of the school corporations appointing him may allow such further sum by way of compensation as may be just and proper.

**The Coroner.** The title of coroner is no longer significant of the dignity and power that clothed that office in early England. In England, in early times, the coroner was the king's crowner, or the law officer who tried crown pleas in the courts. The coroner, as known among our county officers, has nothing to do with legal affairs other than the investigation of sudden deaths where uncertainty as to the cause prevails, or where suspicion of foul play exists. When a dead body has been found and there is reason to believe a crime has been committed, the coroner is informed and he at once summons a jury of three persons to hear evidence concerning the cause of death. He may subpoena witnesses and take testimony, after which the jury renders a verdict. The jury generally consists of a physician, a lawyer and one other person. If the jury designates any person as the perpetrator of the crime, the coroner must arrest that person and present him to the district court for trial. A justice of the peace may act as coroner in the absence of that officer. The

coroner is paid by fees and he may succeed to the office of sheriff in case of a vacancy in that office.

**The Engineer.** The State Legislature of 1911 passed an act abolishing the office of county surveyor and created in place of it the office of county engineer. The reason for the change was due to the very small amount of surveying necessary to be done and the much greater need of an engineer to construct grades, ditches, roads and build bridges. The former duties of surveying lands and settling boundary disputes by locating lines is now a part of the county engineer's duty. The engineer is paid by fees, and when acting for an individual is paid by that person.

**Taxes.** Taxes in Iowa are levied by five different authorities — the state, the county, the township, the town or city and the school district. All of these taxes are assessed at the same time by the township or town assessor. Taxes may be paid in full between the first Monday in January and the first day of March; or they may be paid in two installments, the first half before the first day of March, and the second half before the first day of September. The first half is due the first day of March and becomes delinquent the first day of April. The second half is due the first of September and becomes delinquent the first of October. After taxes become delinquent a penalty of one per cent per month is collected. If taxes are unpaid the county treasurer offers such real estate for sale at his office on the first Monday in December. Lands thus sold for tax may be redeemed if the owner pays all back taxes with interest before the end of three years.

An act of the general assembly of 1911 repealed the law passed a few years before, commonly known as the



tax ferret law. That law provided that the supervisors of a county had the right to "contract in writing with any person to assist the proper officers in the discovery of property not listed and assessed as required by law." The law was severely criticised because of the alleged unfairness in its manner of operation and was repealed in 1911.

## QUESTIONS

1. By what authority are counties organized?
2. Name the civil townships in this county.
3. What are the duties and powers of the county supervisors?
4. Name the legislative, the executive, and the judicial officers of the county.
5. Name the county officers in the order of their importance.
6. What officers would you consult to determine the validity of a title to real estate?
7. Which predominates in this state — the county or the township system of government?
8. Can a person sue the county? Can a person sue the state?
9. Which officers can furnish a statement of the county expenses?
10. Where would you go to file a will for probate?
11. How many congressional townships in this county?
12. How may a person know whether he has a clear title to land he purchases?



## CHAPTER IX.

### MUNICIPAL GOVERNMENT

By municipal government we mean the government of towns and cities. In discussing governmental units we learned that government must become more detailed in its activities and more complex in its operation as people are brought together in larger numbers. The need of laws by people living in sparsely populated districts is comparatively small, but when many people live within a comparatively small area, such as a town or city, their needs are greatly increased. Rural roads need only to be well graded and drained, but city streets must be paved to make them passable in rainy weather. A township constable can generally maintain order in the township, while the city must have many policemen to guard the safety of the people. An automobile may be driven at a high rate of speed on a country road, but in the crowded city such speed would endanger the lives of the people. These few instances are sufficient to show the need of more carefully administered government in a city than what is required in the country.

**Classification.** Municipalities are divided into three classes, according to population. Cities of the first class, with a population of fifteen thousand and upwards; cities of the second class, with a population of two thousand and less than fifteen thousand; incorporated towns, with a population of less than two thousand. A village is a community of people living in about the same social relations as those living in a town, but which is not yet

incorporated under the laws of the state. Some villages are as large as some incorporated towns.

**Manner of Incorporation.** When the people of a village wish to become an incorporated town, they may apply to the district court by presenting a petition signed by not less than twenty-five voters living within the area of the proposed town. The district judge may change or limit the area proposed to be incorporated. The court then appoints five commissioners, who give notice of an election and conduct such election within the proposed town. The commissioners act as the judges of election, and if a majority of all votes cast favor incorporation, the commissioners report such decision to the district court. The court then directs the same commissioners to hold another election for the necessary town officers.

When a town has two thousand or more people it may by automatic action become a city of the second class. That is, when the official census shows a town to have two thousand people, the town council may then follow the state law for the government and control of a city of the second class, and provides for such additional officers and makes such other changes as are necessary. When a city reaches fifteen thousand or more people, it may become a city of the first class by the same automatic action.

**Control of Municipalities.** Towns and cities in Iowa, and generally throughout the United States, are under the complete control of the state legislature. The legislature enacts laws giving them powers and privileges commensurate to their needs. It is generally assumed that such incorporated bodies have only such powers as are specifically given to them by state law. The chief arguments in favor of a village becoming an incorporated town are: it increases the privileges of the people for good government; and it enables them to levy greater taxes

for town improvements. The chief objection is that it increases taxes.

**Officers.** In an incorporated town the officers comprise: a mayor; a council of five members elected at large; a clerk, a treasurer, and an assessor, elected by the people for two years. There is also a street commissioner appointed by the council, and a marshal appointed by the mayor. Other officers may be appointed as are necessary.

In cities of the first and second classes the council consists of one member elected from each ward and two elected at large. Cities of the second class are divided into wards, not less than three or more than seven. The clerk is chosen by the council instead of by the people. The city also has a solicitor chosen by the people. A marshal, deputy marshal and police officers are appointed by the mayor, with approval of the council, and hold office at the pleasure of the mayor. Any city having a population of four thousand or more may, at its own discretion, have a superior court. In 1911, there were seven such cities. If the city has thirty thousand people it may have a Board of public works.

A city of the first class has elective officers as follows: a mayor; council, solicitor, treasurer, auditor, city engineer, assessor, and where there is no superior court, a police judge. The council appoints a clerk, a physician, a street commissioner, and when necessary, a wharf-master. The mayor appoints a marshal, who is, *ex-officio*, chief of police, and as many policemen as the council by ordinance may direct. The officers appointed by the mayor hold office during his pleasure; those appointed by the council, at the first meeting after the biennial election, hold office for two years. Other officers may be provided for by the mayor and council.

**Powers of the Council.** The town or city council is the

legislative and the controlling body of the municipality. It has power to enact ordinances to promote the safety, health, property, order, comfort, convenience, and to improve the morals of the community. The council provides for paving, cleaning and lighting streets and alleys; for city water, light, sewerage, parks, libraries and playgrounds; they legislate against nuisances, regulate slaughter houses, determine the construction of buildings and the care of cemeteries. The council may also grant licenses to saloons, billiard halls, theatres, circuses, shows, auctioneers, pedlers, etc. It may also prescribe regulations for hotels, restaurants, bus lines, etc. It may prescribe the width of tires on vehicles used on the streets and may designate which streets may be used for heavy teaming. All ordinances must be passed by the council and signed by the mayor, unless passed over his veto. Ordinances must be published in some newspaper in the city as soon as enacted, or they may be posted in at least three public places. A violation of an ordinance constitutes a crime against the town or city and is subject to punishment by a fine not exceeding one hundred dollars, or by imprisonment not exceeding thirty days.

**Elections.** The regular elections in Iowa towns and cities are held biennially, on the last Monday in March. The council divides the city into precincts and determines one voting place in each precinct. It also appoints judges and clerks, and conducts the election in about the same manner as the general election. Any qualified voter having a legal residence in the city or town and having lived ten days in the precinct may vote. All cities having a population of 3500 or more require all voters to register before voting. The object is to prevent those from voting who do not possess the legal qualifications. The city council appoints one person from each of the two political

parties having polled the largest number of votes at the last general election, to act as registers in each voting precinct. These registers meet in each precinct on the Thursday prior to the general election. Before presidential elections the places of registration are open for three days, other elections, two days. All persons wanting to vote at the general election must appear before the register and present evidence that he is qualified to vote in that precinct. His statement of qualifications is registered in a book kept for that purpose.

**Cities under Special Charters.** Previous to the revision of the Constitution in 1857, the state legislature granted special charters to some towns in Iowa, which have since continued to govern themselves under those charters. They are five in number and include, Davenport, Dubuque, Glenwood, Muscatine, and Wapello. The charters are not alike and are subject to the control of the legislature the same as are other cities.

**Commission Plan of Government.** Municipal government in the United States has not proven as satisfactory in its operation as has the government of other political units. Cities are generally populated by a variety of people. Slum districts are filled with irresponsible people who are easily led and influenced by demagogues and political bosses. The expenditures necessary to carry on city government are enormous. For these and other reasons city government is often corrupt in character and extravagant in expenditures. To remedy these defects, various plans of government have been suggested. Some people believe greater executive control on the part of the state to be the solution of bad city government, and advocate the appointment of mayors and councilmen by the state. Other people believe home rule will better remedy the abuses. During the past few years a system



of city government known as the commission plan has been tried throughout the country. Galveston, Texas, seems to be the most successful of the western cities in this plan of government. It has been adopted by cities in Iowa, and is now in operation in Des Moines, Cedar Rapids, Burlington, Fort Dodge, Keokuk, Marshalltown, Sioux City, and Ottumwa. This plan of government was first provided for by the legislature in 1907. This first act applied only to cities of 25,000 or over, but in 1909, it was extended to cities having a population of 7000 or more.

**Government by Commission.** Under this plan of government the control of the city is given to a commission still retaining the name council. In cities of 25,000 or more the commission consists of a mayor and four councilmen, while in cities of 7000 and less than 25,000, it consists of a mayor and two councilmen. The elections, both primary and general, are non-partisan, and any qualified voter may become a candidate and stand for election. In the primary election each voter may vote for one of the candidates for mayor. The two persons receiving the highest number of votes become the candidates for mayor in the general election. From the candidates for councilmen in the primary each voter may vote for eight in cities of 25,000 population or over, and for four in cities of less than 25,000. In the general election the mayor is chosen from the two candidates, and the councilmen are chosen from the eight candidates or from the four candidates, as the case may be.

The affairs of the city are grouped under five different departments, designated by the following names:

1. Department of Public Affairs.
2. Department of Accounts and Finance.
3. Department of Public Safety.
4. Department of Streets and Public Improvements.
5. Department of Parks and Public Property.



The mayor is at the head of the first department and a councilman heads each of the other departments. In cities having only three members in the commission each councilman has charge of two departments. Each member of the commission is designated as superintendent of his department. Each commissioner has charge of his own department, and is responsible for the success and conduct of it.

He recommends appointments for his department and these are acted upon by the council.

**New Features.** The principle of recall is operative in the commission plan of government. If any commissioner is charged with corruption or negligence in the administration of the affairs of his department, he may be removed from office and another person elected in his place. The process of removal requires that a petition requesting his recall be signed by twenty-five per centum of the voters and be presented to the city clerk. An election is then held to choose a successor. The removed officer may again be a candidate. The person receiving the highest number of votes is elected. A second new feature in this plan of government is the initiative and the referendum by which the people may demand and obtain direct legislative power. If a proposed ordinance is submitted to the council, accompanied by a petition signed by a number of voters equal to twenty-five percentum of the votes cast for all the candidates for mayor at the last general election, the council must pass the ordinance without alteration, or they must submit it to the vote of the electors within a given time. The people may also demand that an ordinance passed by the council be submitted to them for approval or rejection, in the same manner.

**Advantages.** The commission plan of government has the following advantages. It makes the mayor and council

directly responsible to the voters and subject to their recall; it does away with ward politicians, as councilmen are all chosen at large; it gives the people the power to initiate legislation and to approve or reject the council's ordinances; it tends towards expert government because the commissioners are paid to give full time to the work of the city; the better class of people have an opportunity to defeat any ward in its attempt to send unworthy men to the council.

**Compensation.** The salary paid to city officials is determined by the population of the city. The mayor's salary ranges from \$600 in cities of less than 10,000 inhabitants to \$3500 in cities of over 60,000. The compensation of councilmen ranges from \$450 to \$3000, according to the population.

## QUESTIONS

1. Which is the more complex—the government of towns and cities, or the government of the county? Why?
2. From what authority do towns and cities receive their charters?
3. What are city ordinances?
4. Compare towns and cities of the second class.
5. How may a town become incorporated?
6. By what process may a city of the second class become a city of the first class?
7. Would township government be sufficient if administered in a city? Why?
8. Name five powers of a city council.
9. Describe the commission plan of city government.
10. What advantages does the commission plan offer?
11. What are the defects of the commission government?
12. How many cities in Iowa now have commission government?

## CHAPTER X.

### PUBLIC EDUCATION

**Early Provisions.** In his first message to the territorial legislature, in 1838, Robert Lucas recommended "the establishing, at the commencement of our political existence, of a well-digested system of public schools." This led to the passage of a law authorizing the organization of public schools, which went into effect January 1, 1839. It provided that free schools should be opened to free white children between the ages of four and twenty-one. The Constitution of 1846 contained an article on education and school lands. This Constitution also provided "that the legislature shall provide for a system of common schools by which a school shall be kept up and supported in each school district at least three months in every year." It also declared that the legislature should provide for the establishment of libraries as soon as the circumstances of the state would permit. The legislature of 1854 revised and improved the school laws, giving more power to the people and to the Boards and a larger fund out of which to pay teachers and contingent expenses. This act marked the first rapid growth and expansion of public elementary education. The office of city superintendent and the high school now appeared.

**School Areas.** Iowa at present contains four different kinds of school areas. (1) The school township is the largest local school unit. It generally coincides in size and boundaries with the civil township. It is generally subdivided into sub-districts, although it may exist as an

independent district township without division. When the township is regular in size and is sub-divided, it contains nine sub-districts. Sometimes smaller townships contain only eight or seven sub-districts. (2) The independent school district, as the term is applied to a town or city, is the second kind of school area. It varies in size and may consist of but one sub-district of the township, or it may include two or more sub-districts, depending on the size of the incorporated area of the town or city. This kind of district may be formed upon the presentation of a written petition of any ten voters of a city, town or village of over one hundred residents to the Board of the school township in which the portion of the town plot having the largest numbers of voters is situated; such Board shall establish the boundaries of a proposed independent district. (3) Rural independent districts may be formed upon a written request of one-third of the legal voters of the sub-district after giving a notice of thirty days. If a majority of voters cast their votes in favor of independent districts, then each sub-district of the township becomes a rural independent district and calls a meeting to choose three directors to serve for one, two and three years respectively. A single sub-district cannot become independent unless it contains a village, town or city. (4) Sub-districts are the divisions of a school township. If the township is regular in size it will contain nine sub-districts. Sub-districts are not school corporations as are the three first mentioned school areas. Each sub-district elects one sub-director, who is the administrative officer of the district. He meets with other sub-directors in the regular township meetings.

**Changes in Organization.** We have seen how a school township consisting of sub-districts may change into an independent school township, and how any district con-

taining a village, town, or city may become independent; also that the sub-districts of a school township may become rural independent districts by a majority vote of the legal voters of the township. The law also provides that upon a majority vote of all the people of the township the independent rural districts may again become sub-districts of a school township. School government in incorporated towns and cities is not changed by the change made in school townships or in sub-districts. Towns and cities are given exclusive control of their school affairs as one of the privileges given under incorporation.

**School Directors.** In the regular school township each sub-district elects one director. If the township contains an even number of districts, one director is elected at large. These sub-district directors are elected in meetings held on the first Monday in March in each district. The independent town and city districts elect their directors the second Monday in March. Cities of the first class have seven directors each, while cities of the second class and cities under special charter have five. Rural independent districts elect directors on the second Monday in March as do the towns and cities. A few of the most populous rural independent districts in Iowa choose five directors, while all others choose three each.

**School Meetings.** The different school districts hold three different kinds of meetings. The first meeting is for the election of directors and is one of the most democratic in character of all meetings in American government. At this meeting all qualified voters assemble, and not only vote for directors and other officers, but they may at the same time exercise large legislative functions. In these meetings women have the right to vote on all questions concerning the issuance of bonds. Women may also be



chosen directors or other school officers. In sub-districts this meeting is held on the first Monday in March. In all other districts it occurs on the second Monday in March. The second kind of meeting is the organization meeting, at which the school Boards are organized and at which general Board business is taken up. In villages, towns, and cities this meeting occurs on the third Monday of March, while in rural independent districts, independent townships, and school townships it occurs on the first day of July. The third kind of meetings held by school corporations are special meetings. Such meetings may be called by giving ten days' notice. The sale of school property, the purchase of sites, the construction of buildings and the obtaining of roads may be arranged for in these special meetings.

**Powers of the Boards.** The school Boards have very extensive power in the control of the school interests over which they preside. The Board cares for school property, chooses sites for school buildings and erects the same. The Board may divide the district, if necessary, and determine which school the pupil may attend. It may also unite districts or establish union or graded schools. The Board prescribes the course of study for the schools and makes rules governing the sub-district directors, officers and teachers. It must keep a careful account of all receipts and expenditures of money and publish the same each year. The Board makes annual estimates of the amount of taxes necessary to carry on the schools. It must also provide instruction for at least six months in each year for all persons of school age. It may, if the voters so choose, furnish free books to all indigent children who would otherwise be deprived of school advantages. The voters at the annual meeting may instruct the Board to carry out such further regulations as the people of the



district may wish. The law of 1890 empowers the Board to purchase and furnish to the pupils at cost school books and other supplies.

**County Board of Education.** The county superintendent, the auditor, and the Board of supervisors constitute a Board of education for the county. Upon the receipt of a petition signed by one-half the school directors of the county, the Board may provide for the holding of an election to decide whether or not there shall be uniform text-books. If uniform text-books are adopted, the Board must decide upon the books to be used, to purchase them and to sell them to the directors of the districts. County uniformity does not apply to towns and cities.

**State Board of Education.** This Board will be discussed in Chapter XV., as regards its composition, duties and powers. The duties of the Board, as defined by statute, are: to exercise complete control over the four state institutions — the University, the Teachers College, the Agricultural College and the College for the Blind. The Board, however, exercises a far greater influence over education in the state than merely to control these four institutions. In determining the entrance requirements to the first three institutions, the Board practically fixes a standard for every high school in the state. By determining the standard and quality of instruction in the state institutions, the Board also determines the standard and quality of instruction in practically all other colleges of the state. All standard colleges of the state will gradually come to accept the rulings of the State Board of Education as regards entrance qualifications, equipment, quality of instruction and conditions for graduation. The high schools will necessarily need to meet the requirements of the Board in order to gain entrance for their graduates

into the colleges. The grades, in turn, are slightly affected by the changed requirements of the high schools.

**State University of Iowa.** The University was established February 25, 1847, and was located at Iowa City. It is maintained and controlled by the State of Iowa and stands at the head of the public school system. The University is under the administration of the State Board of Education, consisting of nine members, and a Finance Committee of three members appointed by the Board. The immediate control of the institution is under the charge of the president and the faculty. The University comprises the following colleges: Liberal Arts, Graduate College, Law, Medicine, Homeopathic Medicine, Dentistry, Pharmacy, Fine Arts; and the schools of Political and Social Science, Education, Music, Library Training, and Nurses.

**State Teachers College.** The Teachers College was established in 1876, and was located at Cedar Falls. This college is also under the control of the State Board of Education. It is a teachers' school, and limits its instruction to courses particularly planned for all kinds of public school teachers. The courses furnish instruction for primary teachers, kindergarten, physical training, manual training, domestic science, music and general grade and high school teachers.

**Iowa State College of Agriculture.** This college was established in 1868, and is under the control of the State Board of Education. It is located at Ames. Courses are given in mechanical, electrical, mining and civil engineering; in dairying and animal husbandry; in agriculture and horticulture; and in general science and in domestic science. A large and well-equipped experiment station is a part of the institution.

**College for the Blind.** This institution is located at Vinton. The literary work covers a period of twelve years and is outlined similar to the work done in the public schools, having a fully accredited high school. The department of music is supplied with a number of pianos, one pipe organ and a number of stringed instruments. All students are required to do work in the industrial department. These advantages are free to all blind children of school age and to those whose defective vision prevents them from attending the public schools.

## QUESTIONS

1. Under what conditions may the boundaries of a civil township differ from those of a congressional township?
2. Why do villages prefer to be organized into independent school districts?
3. Do you believe in rural consolidation? Why?
4. Who pays the tuition of rural pupils while attending town high schools?
5. Name the different kinds of school meetings.
6. May women vote at school meetings?
7. Do you know of any school township where free textbooks are furnished to the pupils?
8. Why is a school meeting a democratic institution?
9. Give the names of the persons constituting the present State Board of Education.
10. What is the difference between a university and a college?

## CHAPTER XI.

### THE COST OF EDUCATION

**Financial Support for Education.** Large sums of money are required every year to pay the expenses of education in the schools and colleges of Iowa. Buildings must be erected and furnished; heat, light and supplies must be provided; salaries of teachers must be paid and other incidental expenses must be met. The money used to pay these expenses is derived from the following sources: land grants made by the Federal Government to the state; money grants made by the Federal Government to the state; appropriations made by the state legislature; special taxes on assessed valuation of taxable property in the state levied by acts of the state legislature; ordinary and special school taxes voted by the electors in school districts; money paid as an equivalent from exemption from military duty; the clear proceeds of fines collected for breaches of the penal laws; the proceeds of lands escheating to the state.

**Land Grants from the Federal Government.** In July, 1840, while Iowa was still a territory, Congress passed an act granting two townships of land to the territory to be used for the support of a territorial university. This has been known as the University Grant. On September 4, 1841, Congress granted to each of the states 500,000 acres of land for internal improvements, and when Iowa framed its Constitution, provision was made to use this amount of land for school purposes rather than for some other form of internal improvement. On March 3, 1845,

the National Government passed an act, providing that the sixteenth section of every township in Iowa should be granted to the state for the use of schools. This was known as the Sixteenth Section Grant and contained about 1,104,331 acres. Also on March 3, 1845, the National Government granted to the State of Iowa all the salt springs within the state to a number not to exceed twelve, and with each spring six sections of land. The number of springs located was seven and the amount of land obtained in this way was 46,202 acres. In 1853, the legislature provided that this land should be sold for the benefit of the schools. This grant of land was called the Saline Land Grant. On March 3, 1845, Congress further provided that five entire sections of land should be set aside for the purpose of completing the public buildings of the state. This land was also later sold in accordance with an act of the legislature and the proceeds used to establish an Agricultural College and Farm. This grant was known as the Five Section Grant. In 1850, Congress passed an act giving to the state a large amount of land known as the Swamp Land Grant. In accordance with this act about 1,660,556 acres of lands have come into possession of the state and have been turned into the public school fund. On July 2, 1862, Congress passed another act by which the United States gave to each state in the Union a large tract of land for the establishment and maintenance of a College of Agriculture. The total amount of this land in Iowa was about 204,309 acres. This became known as the Agricultural College Grant. Of all this land obtained by the state from the Federal Government, the greater part has already been sold and the money forms the permanent school fund of the state. Some land still remains unsold and is at present held by the state; it is rented out to reliable citizens and the rent paid into the school fund.



**Money Grants from the Federal Government.** The Federal Government has on three different occasions made large money donations to Iowa for the further support of education. The first was made in 1845, and was supplemental to an act admitting Iowa into the Union. It is known as the Five Percent Fund and amounted to about \$580,475. The second grant of money was made on August 30, 1890, and is known as the Second Morrill Act Fund. This act provided \$15,000 annually to the State Agriculture College. Since 1900, the amount paid annually is \$25,000. In 1887, Congress appropriated an annual sum of \$15,000 to be used establishing and maintaining an experiment station in connection with the Agricultural College in each state.

**Appropriations made by the State Legislature.** The legislature has made many appropriations for the three state institutions of Iowa. The earliest appropriation made by the legislature was on March 11, 1858, when a law was enacted appropriating \$3000 for the purpose of repairing and fitting up the old capitol building at Iowa City. A few days later, on March 22, 1858, the first appropriation of money for the State Agricultural College was made by the legislature. The first appropriation for the State Teachers College was made on March 17, 1876, when the sum of \$14,000 was authorized for the fitting up of the institution at Cedar Falls. From these early dates up to the present time the state legislature has made regular biennial appropriations for the support of these three educational institutions. The sums appropriated yearly at present are of course much larger than in the beginning of the institutions.

**Special Taxes Levied by the Legislature.** In addition to the appropriations for the support of the three state institutions, the state legislature has at different times



voted special taxes of a fractional part of a mill on each dollar of assessed valuation of taxable property of the state. Such tax was first voted for the University on March 17, 1896. It was to continue for four successive years, and the proceeds were to be used for building purposes. A similar tax was levied in 1900 for the Agricultural College and in 1900 for the Teachers College.

**School Taxes Voted by Electors.** The electors in each school district may vote sums in addition to what other sources of revenue yield as are found necessary. The Board of directors may estimate the additional sum necessary for the year, and also declare the amount necessary for a contingent fund. For the building of school-houses the law requires that the tax shall be voted by the electors at the annual meeting. The amounts determined upon by the directors, together with what is necessary for buildings, are certified by the county auditor to the Board of county supervisors, and they levy upon the respective districts the taxes voted in each. These taxes are collected along with the other taxes of the county.

The amount of money that may be expended in any one year for the support of schools is limited by law. Not more than twenty dollars may be expended in any year from the teachers' fund for each person of school age. Not more than seven dollars for each person of school age may be expended from the contingent fund. The law does, however, authorize a levy of two hundred and seventy dollars for the teachers' fund and seventy-five dollars for the contingent fund, even if it exceeds twenty-seven dollars respectively per pupil for these funds. Tax for the school fund is limited to ten mills on the dollar for all taxable property within the corporation. If the amount voted by the school township is insufficient in any school district, that district may by a majority vote

of the electors at an annual or special election increase the rate, but not to exceed fifteen mills on the dollar. In levying this tax, the county supervisors must apply the levy to property within the district only. The electors of the district may authorize the directors to meet a still further need of money for building purposes, by borrowing money and issuing bonds of the corporation. For the payment of such borrowed money the assessment must not exceed five mills on the dollar levied on the property within the district.

**Other Sources of Support for Schools.** The Constitution of Iowa makes the following provision for additional support for the public schools. The money which may have been or shall be paid by persons as an equivalent from exemption from military duty, and the clear proceeds of all fines collected in the several counties for any breach of the penal laws, shall be exclusively applied, in the several counties in which such money is paid or fine collected, among the several school districts of said counties, to the support of common schools, or the establishment of libraries, as the Board of education shall from time to time provide, and all estates of deceased persons, who may have died without leaving a will or heir, shall revert to the permanent school fund of the state.

**The Control and Management of School Funds.** The General Assembly of the State of Iowa has control over the permanent school fund of the state and may enact laws for its care and distribution. We have already observed that this permanent school fund arises from three sources: the proceeds of the sales of the public lands which the state received from the Federal Government; the proceeds from the sales of escheats; fines and forfeitures which the state secures in the administration

of justice. The financial agents of the school fund are the same as by law receive and control the state and county revenue for other civil purposes. The state and county auditors are in charge of the permanent school fund and distribute the income for the maintenance of common schools to the district in proportion to the number of youths between the ages of five and twenty-one years. This basis is obtained by the secretary of the school Board in each district, who must each year make a list of names of all persons within these limits of age. The principal of the permanent fund is loaned out, through the state and county auditors, to reliable persons giving first mortgages on real estate. All these officers are heavily bonded and loans are made only on land securities, which leaves little chance for loss of funds. The legislature has further enacted that the state must make good any loss sustained by the permanent school fund. If any loss occurs the state is obliged to accept such as part of the state's indebtedness and must pay into the school fund each year such amount as equals the interest on the part lost.

The permanent school fund is kept on interest under the management of the state and county auditors. The state auditor apportions the school fund to the several county auditors to be loaned out on interest. If the county auditor does not succeed in loaning out his portion, it is the duty of the state auditor to remove the money to some other county. The interest collected by the county auditors is sent to the state auditor, who apportions it among the county auditors according to law for the use of the schools. The amount of the permanent school fund of the state is over four million dollars.

The treasurer of each school district receives the apportionment of the permanent fund allowed to his district from the county auditor. The treasurer must keep the

money thus entrusted to him under separate accounts with three distinct funds: the school-house, the contingent, and the teachers' fund. The teachers' fund is the most constant and the largest.

### QUESTIONS

1. From what different sources do the schools receive support in Iowa?
2. Name the different land grants made for the benefit of education in Iowa.
3. How may a citizen borrow money from the school fund?
4. What officers of the state and county handle the school fund?
5. Is there any limit to the amount of money spent each year for the support of schools.
6. Compare Iowa with surrounding states as to the annual amount of money expended for education.
7. How are denominational schools and colleges supported?
8. Compare the amount spent annually for the three state educational institutions.

## CHAPTER XII.

### STATE GOVERNMENT

The term "State," or "Commonwealth," as used in this chapter, may be defined as a political division of the United States, or as a body politic, a constituent member of the Union. The state has almost entire control of all the ordinary activities of the people living within its border. In very few respects do the citizens of our state come in contact with the powers or authority of the Federal Government. The authority exercised by our state government is so great as to control practically all our actions in our relations to each other.

**Constitution Defined.** The highest law of the state is called the Constitution. It is sometimes defined as "the supreme law of the state." We must not, however, confuse the term "constitution" with the term "law" as it is ordinarily used, meaning an act passed by the legislature. The Constitution is a supreme plan of government and differs from an ordinary law in the following respects; a constitution is made by the whole people, through their delegates, sitting in a convention for that purpose, and is afterwards ratified or accepted by the people, while a law is made by the people's representatives and the people themselves have no direct voice in the matter; a constitution can only be revised or amended by a vote of the people given at a general election, while a law may be repealed or amended by the legislature itself; a constitution is a general plan of government and states in general terms how the people may be governed,

while a law relates to a specific subject and states in detail the rules governing certain actions; for example, the Constitution says, "No law shall be passed to restrain or abridge the liberty of speech or of the press," which is a general statement concerning these privileges of the people; but our legislature has enacted laws defining these terms and fixing the penalty for their violation or abuse.

**The Code of Iowa.** The general assembly meets in regular session every two years and during each session passes many legislative acts or laws. Sometimes old laws are repealed as well as new ones enacted. When all the laws in force at any time are collected and printed in book form, such collection is called the code of Iowa. Thus the code consists of all the laws in force in the state at any given time and forms a convenient volume for the use of lawyers, judges, and other officials. This collection of laws is so large that it is impracticable for any person to attempt to become familiar with all of them. It is sufficient for the student of civics to learn to use the code and to find any particular law to which his attention may be directed.

**The Constitution of Iowa.** We have just learned that the constitution is the sovereign will of the people and that it represents more than the voice of the people expressed in legislation. The constitution lays down the fundamental principles of government and restricts the law-makers and chief officials of the state, compelling them to act in accordance with the will of the people as expressed in their fundamental document.

We learned in Chapter IV. that the Constitution of Iowa was made in a convention of the people meeting at Iowa City, and that it was adopted by the people at an election held August 3, 1846. This Constitution served



the state without change until 1856, when the people voted to revise it, and another convention was called for that purpose in January, 1857. The present Constitution was made in that convention and was adopted by the people August 3, 1857. It has since been changed by amendment, but has not been further revised. The Constitution of Iowa may be analyzed and studied under the following articles and heads:

Preamble.

Boundaries.

Article I. Bill of Rights.

Article II. Right of Suffrage.

Article III. Legislative Department.

Article IV. Executive Department.

Article V. Judicial Department.

Article VI. Militia.

Article VII. State Debts.

Article VIII. Corporations.

Article IX. Education and School Lands.

Article X. Amendments to the Constitution.

Article XI. Miscellaneous.

Article XII. Schedule.

## PREAMBLE

We, the People of the State of Iowa, grateful to the Supreme Being for the blessings hitherto enjoyed, and feeling our dependence on Him for a continuation of those blessings, do ordain and establish a free and independent government, by the name of the State of Iowa, the boundaries whereof shall be as follows:

**BOUNDARIES.** Beginning in the middle of the main channel of the Mississippi River, at a point due east of the middle of the mouth of the main channel of the Des Moines River; thence up

the middle of the main channel of the said Des Moines River, to a point on said river where the northern boundary line of the State of Missouri—as established by the Constitution of that state, adopted June 12, 1820—crosses the said middle of the main channel of the said Des Moines River; thence westwardly along the said northern boundary line of the State of Missouri, as established at the time aforesaid, until an extension of said line intersects the middle of the main channel of the Missouri River; thence up the middle of the main channel of the said Missouri River to a point opposite the middle of the main channel of the Big Sioux River, according to Nicolett's map; thence up the main channel of the said Big Sioux River, according to the said map, until it is intersected by the parallel of forty-three degrees and thirty minutes north latitude; thence east along said parallel of forty-three degrees and thirty minutes, until said parallel intersects the middle of the main channel of the Mississippi River; thence down the middle of the main channel of the said Mississippi River to the place of beginning.

## QUESTIONS

1. Which exercises the greatest powers over the individual citizen — the government of the state or that of the Nation?
2. Define the term, state Constitution.
3. When was the last code of Iowa published?
4. What is the difference between the Constitution and a law?
5. Commit the Preamble to the Constitution of Iowa.
6. Bound Iowa according to the description given in the Constitution.

## CHAPTER XIII.

### THE CONSTITUTION OF IOWA

(*Continued*)

A Bill of Rights is a statement of the fundamental rights of the people. It enumerates such recognized rights and privileges as are generally understood to belong to the people under a republican form of government. They are rights conceded to belong to all people irrespective of class or condition, and are such as would be claimed by any free intelligent people. The Bill of Rights originated in the early English charters when the people formulated a statement of their fundamental rights and privileges and then forced the kings to recognize those rights. Magna Charta, in 1215, was a charter of this kind, and the Bill of Rights agreed to by William and Mary in 1688 doubtless contained the origin of the name.

#### ARTICLE I. — BILL OF RIGHTS

**RIGHTS OF PERSONS.** *Section 1.* All men are, by nature, free and equal, and have certain inalienable rights, among which are those of enjoying and defending life and liberty, acquiring, possessing, and protecting property, and pursuing and obtaining safety and happiness.

**POLITICAL POWER.** *Sec. 2.* All political power is inherent in the people. Government is instituted for the protection, security, and benefit of the people, and they have the right, at all times, to alter or reform the same whenever the public good may require it.

**RELIGION.** *Sec. 3.* The general assembly shall make no

law respecting an establishment of religion, or prohibiting the free exercise thereof; nor shall any person be compelled to attend any place of worship, pay tithes, taxes, or other rates, for building or repairing places of worship, or the maintenance of any minister or ministry.

**RELIGIOUS TEST.** *Sec. 4.* No religious test shall be required as a qualification for any office of public trust, and no person shall be deprived of any of his rights, privileges, or capacities, or disqualified from the performance of any of his public or private duties, or rendered incompetent to give evidence in any court of law or equity, in consequence of his opinions on the subject of religion; and any party to any judicial proceeding shall have the right to use as a witness, or take the testimony of, any other person, not disqualified on account of interest, who may be cognizant of any fact material to the case; and parties to suits may be witnesses, as provided by law.

**DUELING.** *Sec. 5.* Any citizen of this state who may hereafter be engaged, either directly or indirectly, in a duel, either as principal or accessory before the fact, shall forever be disqualified from holding any office under the Constitution and laws of this state.

**LAWS UNIFORM.** *Sec. 6.* All laws of a general nature shall have a uniform operation; the general assembly shall not grant to any citizen, or class of citizens, privileges or immunities, which upon the same terms shall not equally belong to all citizens.

**LIBERTY OF SPEECH AND THE PRESS.** *Sec. 7.* Every person may speak, write and publish his sentiments on all subjects, being responsible for the abuse of that right. No law shall be passed to restrain or abridge the liberty of speech, or of the press. In all prosecutions or indictments for libel, the truth may be given in evidence to the jury, and if it appear to the jury that the matter charged as libelous was true, and was published with good motives and for justifiable ends, the party shall be acquitted.

**PERSONAL SECURITY.** *Sec. 8.* The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable seizures and searches, shall not be violated; and no warrant shall issue but on probable cause, supported by oath or affirmation, particularly describing the place to be searched, and the persons and things to be seized.

Section 1 of the Bill of Rights is copied from the Declaration of Independence, and is not an exact statement of the intended meaning. The statement refers to the equality of men before the law or in respect to the influence of government rather than to their equality as individuals. In every republican government the real political power must be inherent in the people, for the people make the government. The Constitution of the United States places no restrictions upon the state concerning the freedom of religious belief and worship and the state Constitution therefore protects the people in this freedom and forbids the legislature to enact laws restricting one's religious beliefs or manner of worship. The punishment for dueling in Iowa has been greatly extended by legislative act. If one person kills another in a duel he may be charged with murder in the first degree and punished accordingly. The uniformity of law requires that laws must apply to all people under the same conditions in all parts of the state. A law would be void if it granted privileges to the people of one county of the state which were under the same conditions denied to those of another. A false statement intended to injure the reputation of another person, when uttered, is called slander, and when written is called libel. A person is by law subject to punishment for either offense. An officer with a search warrant is permitted to search only for the thing specifically mentioned in the warrant, or for the person whose name is therein contained.

**TRIAL BY JURY; DUE PROCESS OF LAW.** *Sec. 9.* The right of trial by jury shall remain inviolate; but the general assembly may authorize trial by a jury of a less number than twelve men in inferior courts; but no person shall be deprived of life, liberty, or property, without due process of law.

**RIGHTS OF PERSONS ACCUSED.** *Sec. 10.* In all criminal prosecutions, and in cases involving the life or liberty of an individual, the accused shall have a right to a speedy and public



trial by an impartial jury; to be informed of the accusation against him; to have a copy of the same when demanded; to be confronted with the witnesses against him; to have compulsory process for his witnesses; and to have the assistance of counsel.

WHEN INDICTMENT IS NECESSARY. *Sec. 11.* All offenses less than felony, and in which the punishment does not exceed a fine of one hundred dollars, or imprisonment for thirty days, shall be tried summarily before a justice of the peace, or other officer authorized by law, on information under oath, without indictment or the intervention of a grand jury, saving to the defendant the right of appeal; and no person shall be held to answer for any higher criminal offense, unless on presentment or indictment by a grand jury, except in cases arising in the army or navy, or in the militia, when in actual service, in time of war or public danger.

The Federal Constitution guarantees to the individual the right of trial by jury in Federal courts, but that right does not extend to the courts of the states. Section 9 of our state Constitution guarantees the right of jury trial in the state courts. The regular trial jury in a district court consists of twelve men. A jury in a justice's court may consist of six men; a coroner's jury may consist of three men. Due process of law means according to law. In a criminal prosecution the accused person must be present and face the trial. If illness prevents his attendance at court, the trial must stop until he is again able to be present. Ordinary offenses tried in the district court were, previous to 1911, brought only through the action of a grand jury. In 1911, the legislature provided that such indictment may be presented by the grand jury as formerly, or it may be presented through sworn information given by the county attorney. Public offenses are classified as: (1) felonies, (2) misdemeanors. Felony is such offense as may be punished by imprisonment in the penitentiary. Public offenses less severely punished are called misdemeanors.



**Justice of the Peace.** A justice of the peace may try all public offenses in which the punishment prescribed by law does not exceed a fine of \$100 or thirty days' imprisonment in the county jail, or with the consent of both parties the sum in controversy may be \$300. These cases may be tried without a jury unless demanded by the accused person. If a jury is demanded, six men are chosen by order of the justice, and these constitute a jury. If a person commits a more serious crime, such as felony, and is thereby liable to punishment by imprisonment in the penitentiary, the justice has power to conduct a preliminary examination. If the evidence shows probable guilt, the justice may commit the prisoner to the county jail until the meeting of the grand jury. In most crimes the offender has the right of bail, the amount of which the justice may determine.

**Change of Venue.** Either in an actual trial, or in a preliminary examination of a charge of felony, the accused has the right to a change of venue. If he declares upon oath that he believes he cannot secure a fair trial before the present justice and states the reason why, he is given the right to a hearing before the next nearest justice in the same county. The change may also be from one county to another. Only one change of venue is allowed. Any person tried in a justice's court may, if dissatisfied with the judgment, have the case retried in the district court.

**TWICE TRIED; BAIL.** *Sec. 12.* No person shall, after acquittal, be tried for the same offense. All persons shall, before conviction, be bailable by sufficient sureties, except for capital offenses, where the proof is evident or the presumption great.

**HABEAS CORPUS.** *Sec. 13.* The writ of *habeas corpus* shall not be suspended or refused when application is made as required by law, unless in case of rebellion or invasion, the public safety may require it.

**MILITARY.** *Sec. 14.* The military shall be subordinate to the civil power. No standing army shall be kept up by the

state in time of peace; and in time of war no appropriation for a standing army shall be for a longer time than two years.

QUARTERING SOLDIERS. *Sec. 15.* No soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war except in the manner prescribed by law.

TREASON. *Sec. 16.* Treason against the state shall consist only in levying war against it, adhering to its enemies, or giving them aid and comfort. No person shall be convicted of treason unless on the evidence of two witnesses to the same overt act, or confession in open court.

BAIL; PUNISHMENT. *Sec. 17.* Excessive bail shall not be required, excessive fines shall not be imposed, and cruel and unusual punishment shall not be inflicted.

No person tried by regular judicial process and acquitted can be tried again for the same offense, no matter what errors the court may have committed. If an accused person is convicted he may under certain conditions be granted a new trial. A writ of *habeas corpus* is an order issued by a judge and directed to a jailer commanding the jailer to produce the prisoner in court and show why he should be imprisoned. Such writ may issue against anyone who retains another against the other's wishes. The civil authority is supreme in the state until the civil authority itself asks that the military authority supersede it. The militia in Iowa is seldom called into action except to quell strikes and riots. The Constitution of Iowa limits treason to two specific acts. One is levying war against the state, the other is giving aid to an enemy actually attacking the state. No one shall be convicted of treason unless upon the evidence of two persons who saw the act committed. If a judge requires bail to the amount of \$1000 for the offense of stealing chickens, it would be considered excessive because that amount is out of proportion to the crime committed. If a convicted person were sent to jail as punishment for an offense

committed and the jailer were to beat him or mutilate his body, the punishment would be excessive and the jailer would be liable to arrest and punishment.

**EMINENT DOMAIN.** *Sec. 18.* Private property shall not be taken for public use without just compensation first being made, or secured to be made, to the owner thereof, as soon as the damages shall be assessed by a jury, who shall not take into consideration any advantages that may result to said owner on account of the improvement for which it is taken.

The general assembly, however, may pass laws permitting the owners of lands to construct drains, ditches, and levees for agricultural, sanitary or mining purposes, across the lands of others, and provide for the organization of drainage districts, vest the proper authorities with power to construct and maintain levees, drains, and ditches, and to keep in repair all drains, ditches and levees heretofore constructed under the laws of the state, by special assessments upon the property benefited thereby. The general assembly may provide by law for the condemnation of such real estate as shall be necessary for the construction and maintenance of such drains, ditches and levees, and prescribe the method of making such condemnation.

(By proper action of the legislature (31 G. A., joint resolution No. 1 and 32 G. A., joint resolution No. 2) the foregoing paragraph was submitted to vote of the electors at the general election of 1908, and was by them adopted.)

**IMPRISONMENT FOR DEBT.** *Sec. 19.* No persons shall be imprisoned for debt in any civil action, or mesne or final process, unless in case of fraud; and no person shall be imprisoned for a military fine in time of peace.

**PETITION.** *Sec. 20.* The people have the right freely to assemble together to counsel for the common good; to make known their opinions to their representatives, and to petition for a redress of grievances.

**ATTAINDER; EX POST FACTO LAW; OBLIGATION OF CONTRACT.** *Sec. 21.* No bill of attainder, ex post facto law, or law impairing the obligation of contracts, shall ever be passed.

**RESIDENT ALIENS.** *Sec. 22.* Foreigners who are, or may hereafter become residents of this state, shall enjoy the same rights in respect to the possession, enjoyment, and descent of property, as native-born citizens.

**SLAVERY.** *Sec. 23.* There shall be no slavery in this state; nor shall there be involuntary servitude, unless for the punishment of crime.

**RESERVATION OF RENTS.** *Sec. 24.* No lease or grant of agricultural lands, reserving any rent or service of any kind, shall be valid for a longer period than twenty years.

**RIGHTS RETAINED.** *Sec. 25.* This enumeration of rights shall not be construed to impair or deny others, retained by the people.

**INTOXICATING LIQUORS.** *Sec. 26.* (No person shall manufacture for sale, or sell, or keep for sale, as a beverage any intoxicating liquors whatever, including ale, wine and beer. The general assembly shall by law prescribe regulations for the enforcement of the prohibition herein contained, and shall thereby provide suitable penalties for the violation of the provisions hereof.)

(The foregoing amendment was adopted at a special election held on June 27, 1882. The supreme court, April 21, 1883, in the case of *Koehler and Lang vs. Hill*, and reported in 60th Iowa, page 543, held that owing to certain irregularities the same was not legally submitted to the electors, and did not become a part of the Constitution.)

The right of eminent domain is the right of the state to take private property for public purposes upon paying a just compensation to the owner. If the owner refuses the compensation offered by the state, a commission is appointed to appraise the value of the property. The owner still has the right of appeal to the district court. Freedom from imprisonment for debt does not shield the person who fraudulently contracts debts. Every body or community of people has the right of petition to those above them in authority. Students have the right to petition the teacher or the faculty. A petition is only a request and has no force as a legal command. A bill of attainder is a legislative act declaring a man guilty of a criminal offense without trial or even in his absence. An *ex post facto* law is a legislative act which makes an act a crime that was not a crime at the time it was committed. Resi-

dent aliens are foreigners who live within the state, but who have not become naturalized citizens. If a criminal is sentenced to jail or to the penitentiary, he may be compelled to work without being enslaved. The rapid changes in economic and social conditions make long time leases of land unjust.

### QUESTIONS

1. Which of all the statements in the bill of rights do you consider the most important?
2. What is meant by all the political power being vested in the people?
3. Could Iowa establish a state religion if the people chose to amend the Constitution so providing?
4. What were the conditions in the early colonies regarding religious beliefs and worship?
5. Define libel; slander.
6. What laws have the general assembly enacted against dueling?
7. Does the Federal Constitution guarantee the right of trial by jury in the state courts?
8. May criminal prosecution and trial continue if the accused is too ill to appear in the court room?
9. May a person be tried twice for the same offense?
10. Define *habeas corpus* act; bill of attainder; ex post facto law.



## CHAPTER XIV.

### THE CONSTITUTION OF IOWA

(Continued)

#### ARTICLE II — RIGHT OF SUFFRAGE

**ELECTORS.** *Section 1.* Every male citizen of the United States, of the age of twenty-one years, who shall have been a resident of this state six months next preceding the election, and of the county in which he claims his vote, sixty days, shall be entitled to vote at all elections which are now or hereafter may be authorized by law.

**PRIVILEGED FROM ARREST.** *Sec. 2.* Electors shall, in all cases except treason, felony, or breach of the peace, be privileged from arrest on the days of election, during their attendance at such elections, going to and returning therefrom.

**FROM MILITARY DUTY.** *Sec. 3.* No elector shall be obliged to perform military duty on the day of election, except in time of war or public danger.

**PERSONS IN MILITARY SERVICE.** *Sec. 4.* No person in the military, naval, or marine service of the United States shall be considered a resident of this state by being stationed in any garrison, barrack, or military or naval place or station within this state.

**INSANE.** *Sec. 5.* No idiot or insane person, or person convicted of any infamous crime, shall be entitled to the privileges of an elector.

**BALLOT.** *Sec. 6.* All elections by the people shall be by ballot.

**GENERAL ELECTION.** *Sec. 7.* The general election for state, district, county, and township officers shall be held on the Tuesday next after the first Monday in November.\*

\*The foregoing Section was submitted to vote of the electors at the general election in 1884, and by them adopted.



Section 1 states clearly the qualifications for voting in Iowa. It should be remembered that United States citizenship is necessary for voting in Iowa. Some states do not have this requirement. The legislature has been urged to pass an amendment to the Constitution granting female suffrage, and the sentiment favoring women voting seems to be growing in Iowa. At present women may vote on the issuance of bonds for school purposes and for local improvements, such as bonding cities for the building of hospitals, etc. The term, breach of the peace, has a very broad meaning and the voter has but little liberty by Section 2. The chief value of the provision is to warrant against plots or false accusations to detain voters when on their way to the polls. Troops known as United States regulars, stationed within the state, are not privileged to vote, although possessing the ordinary qualifications. A person sentenced to the penitentiary in Iowa loses his right to vote until such right is again restored to him by the governor. The Australian ballot system, which consists of a printed ballot containing the names of the candidates for all parties, is used in Iowa. The voter enters a booth and in secret marks the ballot and folds it ready for the ballot box.

### ARTICLE III—OF THE DISTRIBUTION OF POWERS

DEPARTMENTS OF GOVERNMENT. *Section 1.* The powers of the Government of Iowa shall be divided into three separate departments — the legislative, the executive, and the judicial — and no person charged with the exercise of powers properly belonging to one of these departments shall exercise any function appertaining to either of the others, except in cases hereinafter expressly directed or permitted.

Every republican government recognizes the doctrine of the separation of powers. The theory is that govern-

ment will be better administered and remain more nearly immediately responsible to the people if the authority is well distributed among three departments. These departments are known as the Executive, the Legislative, and the Judiciary. The legislative department is the law making branch of the government, and it not only enacts laws, but it provides ways and means for carrying them into effect. The executive branch of the government looks after the actual doing of things and executes or enforces the laws and regulations passed by the legislature. Laws are not always well understood, sometimes they lack clearness when made, and often laws are not obeyed when understood. For that reason laws need to be interpreted, and offenses committed by people in violation of the law must be punished — therefore we have need of a third department — the judicial department, consisting of the courts.

GENERAL ASSEMBLY. *Section 1.* The legislative authority of this state shall be vested in a general assembly, which shall consist of a senate and house of representatives; and the style of every law shall be, "*Be it enacted by the General Assembly of the State of Iowa.*"

SESSIONS. *Sec. 2.* The sessions of the general assembly shall be biennial, and shall commence on the second Monday in January next ensuing the election of its members, unless the governor of the state shall, in the meantime, convene the general assembly by proclamation.

The legislative department is, in some respects, the most important department of the government. In the United States it is called Congress; in the state it is the general assembly; in the county it is the board of supervisors; in the township it is the board of trustees; and in the town or city it is the council. The local Boards in counties, townships, and school corporations, and the councils in towns and cities are executive as well as legislative bodies. Much

of the success of good government depends upon the wisdom of the law-makers and upon the general assembly of Iowa depends much of the success and progress of our people. The legislature must not only enact new laws as they are necessary, but it must change old ones as conditions necessitate, and repeal others as they are found unsatisfactory or inadequate. The bicameral form of legislature, that is, two branches, is now universal. The governor may call an extra session of the general assembly any time he thinks the best interests of the state require. The regular biennial session generally lasts about ninety days.

**REPRESENTATIVES.** *Sec. 3.* The members of the house of representatives shall be chosen every second year, by the qualified electors of their respective districts, on the second Tuesday in October, except the years of the presidential election, when the election shall be on the Tuesday next after the first Monday in November, and their term of office shall commence on the first day of January next after their election, and continue two years, and until their successors are elected and qualified.\*

**ELIGIBILITY.** *Sec. 4.* No person shall be a member of the house of representatives who shall not have attained the age of twenty-one years, be a male citizen of the United States, and shall have been an inhabitant of this state one year next preceding his election, and at the time of his election shall have had an actual residence of sixty days in the county or district, he may have been chosen to represent.†

**SENATORS.** *Sec. 5.* Senators shall be chosen for the term of four years, at the same time and place as representatives; they shall be twenty-five years of age, and possess the qualifications of representatives as to residence and citizenship.

**NUMBER AND CLASSIFICATION.** *Sec. 6.* The number of senators shall not be less than one third nor more than one half the representative body, and shall be so classified by lot that one

\* By the amendment (Sec. 7) inserted at the end of Art. II, the election now occurs uniformly in November.

† By an amendment to the Constitution adopted by vote of the electors at the general election in 1880, the words "free white" were stricken from the third line of this Section.

class, being as nearly one half as possible, shall be elected every two years. When the number of senators is increased they shall be annexed by lot to one or the other of the two classes, so as to keep them as nearly equal in numbers as practicable.

**ELECTIONS DETERMINED.** *Sec. 7.* Each house shall choose its own officers, and judge of the qualifications, election, and return of its own members. A contested election shall be determined in such manner as shall be directed by law.

**QUORUM.** *Sec. 8.* A majority of each house shall constitute a quorum to transact business; but a smaller number may adjourn from day to day, and may compel the attendance of absent members in such manner and under such penalties as each house may provide.

Senators and representatives are chosen at the general election in November, in even numbered years. Senators serve for four years and representatives for two years. Senators are divided into two classes, twenty-one being elected at one general election and twenty-nine at the next election. The purpose of a four year term for senators was doubtless to give greater stability to the legislature. The Constitution, by Article III, Section 35, fixed the number of representatives at 108. These are chosen from the 99 representative districts — each county constituting a district. The nine most populous counties have two representatives each. Senatorial districts consist of from one to four counties. Counties forming a district must be contiguous. The last redistricting was done in 1905.

**AUTHORITY OF THE HOUSES.** *Sec. 9.* Each house shall sit upon its own adjournments, keep a journal of its proceedings and publish the same; determine its rules of proceedings, punish members for disorderly behavior, and with the consent of two-thirds expel a member, but not a second time for the same offense; and shall have all other powers necessary for a branch of the general assembly of a free and independent state.

**PROTEST.** *Sec. 10.* Every member of the general assembly shall have the liberty to dissent from or protest against any act or resolution which he may think injurious to the public or an

individual, and have the reasons for his dissent entered on the journals; and the yeas and nays of the members of either house, on any question, shall, at the desire of any two members present, be entered on the journals.

**PRIVILEGE.** *Sec. 11.* Senators and representatives, in all cases except treason, felony, or breach of the peace, shall be privileged from arrest during the session of the general assembly and in going to or returning from the same.

**VACANCIES.** *Sec. 12.* When vacancies occur in either house the governor, or the person exercising the functions of governor, shall issue writs of election to fill such vacancies.

**DOORS OPEN.** *Sec. 13.* The doors of each house shall be open, except on such occasions as, in the opinion of the house, may require secrecy.

**ADJOURNMENTS.** *Sec. 14.* Neither house shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which they may be sitting.

**BILLS.** *Sec. 15.* Bills may originate in either house, and may be amended, altered, or rejected by the other; and every bill having passed both houses, shall be signed by the speaker and president of their respective houses.

**APPROVAL.** *Sec. 16.* Every bill which shall have passed the general assembly, shall, before it becomes a law, be presented to the governor. If he approve, he shall sign it; but if not, he shall return it, with his objections, to the house in which it originated, which shall enter the same upon their journal, and proceed to reconsider it; if, after such reconsideration, it again pass both houses, by yeas and nays, by a majority of two-thirds of the members of each house, it shall become a law, notwithstanding the governor's objections. If any bill shall not be returned within three days after it shall have been presented to him (Sunday excepted), the same shall be a law in like manner as if he had signed it, unless the general assembly, by adjournment, prevent such return. Any bill submitted to the governor for his approval during the last three days of a session of the general assembly, shall be deposited by him in the office of the secretary of state within thirty days after the adjournment, with his approval, if approved by him, and with his objections, if he disapproves thereof.

**MAJORITY VOTE.** *Sec. 17.* No bill shall be passed unless by the assent of a majority of all the members elected to each branch of the general assembly, and the question upon the final



passage shall be taken immediately upon its last reading, and the yeas and nays entered on the journal.

RECEIPTS AND EXPENDITURES. *Sec. 18.* An accurate statement of the receipts and expenditures of the public money shall be attached to and published with the laws at every regular session of the general assembly.

IMPEACHMENT. *Sec. 19.* The house of representatives shall have the sole power of impeachment, and all impeachments shall be tried by the senate. When sitting for that purpose, the senators shall be upon oath or affirmation; and no person shall be convicted without the concurrence of two-thirds of the members present.

WHO LIABLE TO; JUDGMENT. *Sec. 20.* The governor, judges of the supreme and district courts, and other state officers, shall be liable to impeachment for any misdemeanor or malfeasance in office; but judgment in such cases shall extend only to removal from office, and disqualification to hold any office of honor, trust, or profit under this state; but the party convicted or acquitted shall nevertheless be liable to indictment, trial, and punishment according to law. All other civil officers shall be tried for misdemeanors and malfeasance in office, in such manner as the general assembly may provide.

MEMBERS NOT APPOINTED TO OFFICE. *Sec. 21.* No senator or representative shall, during the time for which he shall have been elected, be appointed to any civil office of profit under this state, which shall have been created, or the emoluments of which shall have been increased during such term, except such offices as may be filled by elections by the people.

DISQUALIFICATION. *Sec. 22.* No person holding any lucrative office under the United States, or this state, or any other power, shall be eligible to hold a seat in the general assembly. But offices in the militia, to which there is attached no annual salary, or the office of justice of the peace, or postmaster, whose compensation does not exceed one hundred dollars per annum, or notary public, shall not be deemed lucrative.

FAILURE TO ACCOUNT. *Sec. 23.* No person who may hereafter be a collector or holder of public moneys, shall have a seat in either house of the general assembly, or be eligible to hold any office of trust or profit in this state, until he shall have accounted for and paid into the treasury all sums for which he may be liable.

MONEY DRAWN. *Sec. 24.* No money shall be drawn from



the treasury but in consequence of appropriations made by law.

COMPENSATION OF MEMBERS. *Sec. 25.* Each member of the first general assembly under this Constitution shall receive three dollars *per diem* while in session, and the further sum of three dollars for every twenty miles traveled in going to and returning from the place where such session is held, by the nearest traveled route, after which they shall receive such compensation as shall be fixed by law; but no general assembly shall have the power to increase the compensation of its members. And when convened in extra session they shall receive the same mileage and *per diem* compensation as fixed by law for the regular session, and none other.

WHEN LAWS TAKE EFFECT; PUBLICATION. *Sec. 26.* No law of the general assembly, passed at a regular session, of a public nature, shall take effect until the fourth day of July next after the passage thereof. Laws passed at a special session shall take effect ninety days after the adjournment of the general assembly by which they were passed. If the general assembly shall deem any law of immediate importance, they may provide that the same shall take effect by publication in newspapers in the state.

DIVORCE. *Sec. 27.* No divorce shall be granted by the general assembly.

LOTTERIES. *Sec. 28.* No lottery shall be authorized by this state; nor shall the sale of lottery tickets be allowed.

ACTS; ONE SUBJECT; EXPRESSED IN TITLE. *Sec. 29.* Every act shall embrace but one subject, and matters properly connected therewith, which subject shall be expressed in the title. But if any subject shall be embraced in an act which shall not be expressed in the title, such act shall be void only as to so much thereof as shall not be expressed in the title.

LOCAL OR SPECIAL LAWS. *Sec. 30.* The general assembly shall not pass local or special laws in the following cases:

For the assessment and collection of taxes for state, county, or road purposes;

For laying out, opening, and working roads or highways;

For changing the names of persons;

For the incorporation of cities and towns;

For vacating roads, town plats, streets, alleys, or public squares;

For locating or changing county seats.

The legislature of 1911 fixed the compensation of senators and representatives at \$1000 per session, with mileage at the rate of \$3 for every twenty miles traveled in going to and returning from the seat of government. When an extra session is called the compensation is to be at the same rate per day as for the preceding regular session (but it must not exceed \$6 per day), with mileage as for regular sessions. The presiding officer of the state senate is the lieutenant-governor, and he is called the President of the Senate. He receives double the salary of a member. He has full power as a presiding officer, but does not vote except in case of tie. The senate chooses a president *pro tempore*, who presides in the absence of the lieutenant-governor. The house of representatives chooses a presiding officer from among its members and he is called Speaker. He is elected by a party vote and has great influence over legislation because of his extensive powers. He appoints all committees and places on committees such friends as he thinks will respect his wishes in matters of legislation. He votes on all questions except in case of tie.

Both house and senate facilitate business by means of the committee system of legislation. In the house committees are appointed by the speaker and in the senate by the president. During the thirty-fourth general assembly the house had sixty-two standing committees and the senate had forty. The most important committees are those on Ways and Means; Appropriations; Judiciary; Railroads; Banks and Banking, etc. In addition to the above-named standing committees, select committees are named as they are needed, and joint committees may be appointed from both houses. All bills are, as a rule, referred to committees before acted upon by either house. The report of the committee carries great influence with the members. A chairman of a committee

may exercise great influence over legislation by his attitude towards a bill. He may kill the bill by refusing to call the committee together, unless the whole house calls for the bill.

Vacancies in either house are filled by the governor issuing a writ of election and directing it to the district in which the vacancy occurs. The people in that district then proceed to elect another member.

**LAWS GENERAL AND UNIFORM; BOUNDARIES OF COUNTIES.** In all the cases above enumerated, and in all other cases where a general law can be made applicable, all laws shall be general and of uniform operation throughout the state; and no law changing the boundary lines of any county shall have effect until, upon being submitted to the people of the counties affected by the change, at a general election, it shall be approved by a majority of the votes in each county cast for and against it.

**EXTRA COMPENSATION.** *Sec. 31.* No extra compensation shall be made to any officer, public agent, or contractor, after the service shall have been rendered, or the contract entered into; nor shall any money be paid on any claim, the subject-matter of which shall not have been provided for by pre-existing laws, and no public money or property shall be appropriated for local or private purposes, unless such appropriation, compensation, or claim be allowed by two-thirds of the members elected to each branch of the general assembly.

**OATH OF MEMBERS.** *Sec. 32.* Members of the general assembly shall, before they enter upon the duties of their respective offices, take and subscribe the following oath or affirmation: "I do solemnly swear (or affirm, as the case may be) that I will support the Constitution of the United States, and the Constitution of the State of Iowa, and that I will faithfully discharge the duties of senator (or representative, as the case may be) according to the best of my ability." And members of the general assembly are hereby empowered to administer to each other the said oath or affirmation.

**CENSUS.** *Sec. 33.* The general assembly shall, in the years one thousand eight hundred and fifty-nine, one thousand eight hundred and sixty-three, one thousand eight hundred and sixty

five, one thousand eight hundred and sixty-seven, one thousand eight hundred and sixty-nine, and one thousand eight hundred and seventy-five and every ten years thereafter, cause an enumeration to be made of all the inhabitants of the state.

**NUMBER AND APPORTIONMENT OF SENATORS.** *Sec. 34.* The senate shall be composed of fifty members to be elected from the several senatorial districts established by law, and at the next session of the general assembly held following the taking of the state and national census they shall be apportioned among the several counties or districts of the state, according to population as shown by the last preceding census.

**REPRESENTATIVE DISTRICTS.** *Sec. 35.* The house of representatives shall consist of not more than one hundred and eight members. The ratio of representation shall be determined by dividing the whole number of the population of the state as shown by the last preceding state or national census by the whole number of counties then existing or organized, but each county shall constitute one representative district and be entitled to one representative; but each county having a population in excess of the ratio number, as herein provided, of three-fifths or more of such ratio number, shall be entitled to one additional representative, but said addition shall extend only to the nine counties having the greatest population.\*

**RATIO OF REPRESENTATION.** *Sec. 36.* The general assembly shall, at the first regular session held following the adoption of this amendment, and at each succeeding regular session held next after the taking of such census, fix the ratio of representation and apportion the additional representatives as herein before required.

**DISTRICTS.** *Sec. 37.* When a congressional, senatorial, or representative district shall be composed of two or more counties, it shall not be entirely separated by any county belonging to another district; and no county shall be divided in forming a congressional, senatorial, or representative district.

**ELECTIONS BY GENERAL ASSEMBLY.** *Sec. 38.* In all elections by the general assembly the members thereof shall vote *viva voce*; and the votes shall be entered on the journal.

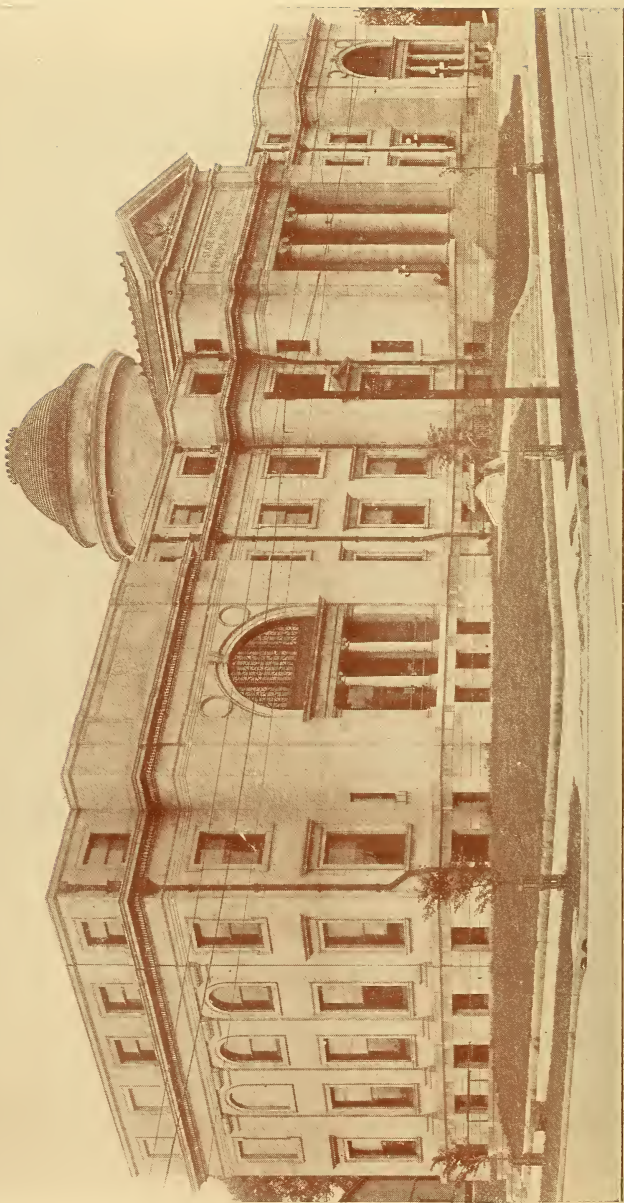
\* Sections 34, 35, and 36 were submitted to the voters at the general election held in November, 1904, and adopted as amendments.

## QUESTIONS

1. Do all states make citizenship in the United States a necessary qualification for voting in the state?
2. To what extent may women vote in Iowa?
3. What is the enacting clause to legislation in Iowa?
4. Why is the legislature one of the most important departments in the government?
5. State the qualifications for membership in each house of the legislature.
6. How many members in either house are necessary to record the yeas and nays on the journal?
7. Describe the process of impeachment. (See Statutes of Iowa.)
8. Define a bill; a law; a joint resolution.
9. What is the present compensation of members of the state legislature?
10. What is meant by the committee system of legislation?
11. How often and when is the state census taken? The United States census?
12. How is the ratio of representation of the state determined?







STATE HISTORICAL BUILDING, DES MOINES, IOWA

## CHAPTER XV.

### THE CONSTITUTION OF IOWA

(Continued)

#### EXECUTIVE DEPARTMENT

**Importance of the Executive Department.** The executive department is generally conceived of as the most important department of the government. We get this impression because it is the department most seen. The greater number of officials of the state belong to the executive department. This is easily understood when we begin to enumerate those actually found in the state, the county, the cities and towns, and in the school corporations. In the total they number many thousands.

The actual importance of the executive work in the state government is frequently exaggerated. So much of the work of the government is actually carried on by the officials of the local units, such as counties, cities and towns, and townships, that the general executive duties of the governor and state officials are not so great. The chief duty of the governor is to see that all the laws of the state are faithfully executed, and however important may be his influence over legislation, his chief duty is to see that laws are enforced rather than to help make them.

#### ARTICLE IV. — EXECUTIVE DEPARTMENT

GOVERNOR. *Section 1.* The supreme executive power of this state shall be vested in a chief magistrate, who shall be styled the Governor of the State of Iowa.

**ELECTION AND TERM.** *Sec. 2.* The governor shall be elected by the qualified electors at the time and place of voting for members of the general assembly, and shall hold his office two years from the time of his installation, and until his successor is elected and qualified.

**LIEUTENANT-GOVERNOR; RETURNS OF ELECTIONS.** *Sec. 3.* There shall be a lieutenant-governor, who shall hold his office two years, and be elected at the same time as the governor. In voting for governor and lieutenant-governor, the electors shall designate for whom they vote as governor, and for whom lieutenant-governor. The returns of every election for governor and lieutenant-governor, shall be sealed up and transmitted to the seat of government of the state, directed to the speaker of the house of representatives, who shall open and publish them in the presence of both houses of the general assembly.

**ELECTION BY GENERAL ASSEMBLY.** *Sec. 4.* The persons respectively having the highest number of votes for governor and lieutenant-governor shall be declared duly elected; but in case two or more persons shall have an equal, and the highest, number of votes for either office, the general assembly shall, by joint vote, forthwith proceed to elect one of said persons governor, or lieutenant governor, as the case may be.

**CONTESTED ELECTIONS.** *Sec. 5.* Contested elections for governor or lieutenant-governor shall be determined by the general assembly in such manner as may be prescribed by law.

**ELIGIBILITY.** *Sec. 6.* No person shall be eligible to the office of governor or lieutenant-governor who shall not have been a citizen of the United States, and a resident of the state two years next preceding the election, and attained the age of thirty years at the time of said election.

**COMMANDER-IN-CHIEF.** *Sec. 7.* The governor shall be commander-in-chief of the militia, the army, and navy of this state.

**DUTIES.** *Sec. 8.* He shall transact all executive business with the officers of government, civil and military, and may require information in writing from the officers of the executive department upon any subject relating to the duties of their respective offices.

**EXECUTION OF LAWS.** *Sec. 9.* He shall take care that the laws are faithfully executed.

VACANCIES. *Sec. 10.* When any office shall, from any cause, become vacant, and no mode is provided by the Constitution and laws for filling such vacancy, the governor shall have power to fill such vacancy by granting a commission, which shall expire at the end of the next session of the general assembly or at the next election by the people.

CONVENING ASSEMBLY. *Sec. 11.* He may, on extraordinary occasions, convene the general assembly by proclamation, and shall state to both houses, when assembled, the purpose for which they shall have been convened.

MESSAGE. *Sec. 12.* He shall communicate, by message, to the general assembly, at every regular session, the condition of the state, and recommend such matters as he shall deem expedient.

ADJOURNMENT. *Sec. 13.* In case of disagreement between the two houses with respect to the time of adjournment, the governor shall have the power to adjourn the general assembly to such time as he may think proper; but no such adjournment shall be beyond the time fixed for the regular meeting of the next general assembly.

DISQUALIFICATION. *Sec. 14.* No person shall, while holding any office under the authority of the United States, or this state, execute the office of governor, or lieutenant-governor, except as hereinafter expressly provided.

TERM; COMPENSATION OF LIEUTENANT-GOVERNOR. *Sec. 15.* The official term of governor and lieutenant-governor shall commence on the second Monday of January next after their election and continue for two years, and until their successors are elected and qualified. The lieutenant-governor, while acting as governor, shall receive the same pay as provided for governor; and while presiding in the senate shall receive as compensation therefor the same mileage and double the *per diem* pay provided for a senator, and none other.

PARDONS. *Sec. 16.* The governor shall have power to grant reprieves, commutations, and pardons, after conviction, for all offenses except treason and cases of impeachment, subject to such regulations as may be provided by law. Upon conviction for treason he shall have power to suspend the execution of the sentence until the case shall be reported to the general assembly at its next meeting, when the general assembly shall either grant a pardon, commute the sentence, direct the execution of the sentence, or grant a further reprieve. He



shall have power to remit fines and forfeitures, under such regulations as may be prescribed by law; and shall report to the general assembly, at its next meeting, each case of reprieve, commutation, or pardon granted, and the reasons therefore, and also all persons in whose favor remission of fines and forfeitures shall have been made, and the several amounts required.

**LIEUTENANT-GOVERNOR TO ACT AS GOVERNOR.** *Sec. 17.* In case of the death, impeachment, resignation, removal from office, or other disability of the governor, the powers and duties of the office for the residue of the term, or until he shall be acquitted, or the disability removed, shall devolve upon the lieutenant-governor.

**PRESIDENT OF SENATE.** *Sec. 18.* The lieutenant-governor shall be president of the senate, but shall only vote when the senate is equally divided; and in case of his absence, or impeachment, or when he shall exercise the office of governor, the senate shall choose a president *pro tempore*.

**VACANCIES.** *Sec. 19.* If the lieutenant-governor, while acting as governor, shall be impeached, displaced, resign, or die, or otherwise become incapable of performing the duties of the office, the president *pro tempore* of the senate shall act as governor until the vacancy is filled or the disability removed; and if the president of the senate, for any of the above causes, shall be rendered incapable of performing the duties pertaining to the office of governor, the same shall devolve upon the speaker of the house of representatives.

**SEAL OF STATE.** *Sec. 20.* There shall be a seal of this state, which shall be kept by the governor, and used by him officially, and shall be called the Great Seal of the State of Iowa.

**GRANTS AND COMMISSIONS.** *Sec. 21.* All grants and commissions shall be in the name and by the authority of the people of the state of Iowa, sealed with the great seal of the state, signed by the governor, and countersigned by the secretary of state.

**SECRETARY, AUDITOR, AND TREASURER.** *Sec. 22.* A secretary of state, auditor of state, and treasurer of state shall be elected by the qualified electors, who shall continue in office two years, and until their successors are elected and qualified, and perform such duties as may be required by law.

**The Governor.** The governor, lieutenant-governor and all other elective state officers are chosen at the general election held in November in even numbered years. The election returns for governor and for lieutenant-governor are transmitted to the speaker of the house of representatives, who in the presence of both houses of the general assembly, opens the returns and announces the result. As the general assembly is not generally in session at election time, the returns for governor and lieutenant-governor are sent to the executive council and retained by the secretary of state, until the assembly meets and elects a speaker. The governor must take the oath of office administered by a justice of the supreme court within ten days after having been declared elected by the general assembly. He then holds his office until his successor is elected and qualified.

**Law of Succession.** The Constitution of Iowa provides that the order of succession to the office of governor in case of death, resignation or inability to serve, shall be as follows; the governor; the lieutenant-governor; the president *pro tem* of the senate; the speaker of the House. Therefore in theory the office of the chief executive of the state is never vacant as each succeeds in his turn. If the governor resigns he sends his resignation to the general assembly, if that body is in session; if not, he deposits it with the secretary of state.

**Duties and Powers of the Governor.** The duties and powers of the governor are determined both by the Constitution and by the legislature. He is entrusted with the faithful execution of the laws; he advises the general assembly of the condition of the state and recommends needed legislation; he approves or vetoes acts of the legislature; he appoints all officers or members of official boards not otherwise provided for, or so designated by the legislature; his power to appoint generally carries with

it the power to remove for cause; he keeps the Great Seal of the state and signs all commissions and seals them with the Seal after being countersigned by the secretary of state; he is commander-in-chief of the state militia; he may make and publish regulations and orders for the government, discipline, and uniforming of the Iowa National Guard; he may convene, adjourn and dissolve the general assembly; he may issue writs for the election of senators and representatives of the state, and for representatives of the United States, in case of vacancies in those offices; he may grant reprieves, commutations and pardons after conviction for all offenses except in cases of treason and impeachment; he may issue requisition papers on the governors of other states, requesting the arrest and return of escaping criminals.

**Compensation of Governor.** The governor receives a yearly salary of \$5000 per year. He also receives \$600 per year for house rent, and he receives \$1200 per year for his services as a member of the executive council. The salary of the governor is not fixed by the Constitution, but is left to be determined by the state legislature.

**The Secretary of State.** This officer is at the head of the department of state and has an office at the capitol at Des Moines. He keeps a careful record of all the acts and resolutions of the territorial legislature and of the general assembly of the state. It is his duty to see that the acts of the general assembly are published and distributed each biennial period. He countersigns all commissions and proclamations issued by the governor and keeps a record of the same. He also keeps the original laws of the state and the original copy of the constitution. Certificates for the nomination of state officers are filed in his office. He also keeps a record of the organization of towns and cities of the state and the population of each.

He has records showing the lands owned by the state. He compiles and distributes the Official Register of Iowa, and gives out other public documents provided for distribution. His term of office is two years and his salary is \$2200 annually as secretary and \$1200 additional as a member of the executive council.

**The State Treasurer.** The treasurer of the state receives the revenues of the state and distributes them according to laws passed by the legislature. Whenever money is received by the treasurer a duplicate receipt is given to the auditor and the books of the two offices must always correspond as regards the amount received and paid out. The treasurer pays out money only as he receives a warrant signed by the auditor. The auditor in turn can only issue warrants in accordance with law. With the advice and approval of the executive council the treasurer may select one or more banks in the city of Des Moines in which he may deposit drafts, checks and certificates for collection. If money remains in such banks for any length of time the bank must pay such rate of interest as may be approved of by the executive council. The state treasurer often has the care of as much as six million dollars during a biennial period. His bond is the highest required of any state official. His salary as treasurer is \$2200, with \$1200 as a member of the executive council.

**The Auditor of State.** The work of the auditor is to keep an account of all revenues, funds, and incomes of the state, and of all disbursements. His work for the state corresponds to the work of the county auditor for the county. He is a business manager, or secretary of the business affairs of the state. He examines all accounts against the state and if accepted he draws warrants on the state treasurer for their payment. He can draw no warrant except in strict accordance with law. Every dollar

paid out of the treasury must be in pursuance of some statute. He must submit a biennial report to the governor of all revenues, funds, income, taxable property, and other resources of the state. The permanent school fund of the state is kept on interest under the management of the state and county auditors. If any county auditor fails to loan out the full amount of his apportionment, he returns it to the state auditor, who sends it to another county. The state auditor also apportions the interest on the school fund to the several counties as directed by law. He also has general supervision over insurance, banking, municipal accounting, loan and trust companies, and building and loan associations. He receives \$2200 per year with \$1200 extra for his services as member of the executive council.

**The Executive Council.** The executive council of the state is composed of the governor, secretary, auditor and treasurer, or any three of them. This council is not an advisory body to the governor, but is rather an executive body to which the legislature has delegated certain powers. The chief duties of the council are the equalization of assessments, the canvassing of election returns, the superintendence of the census, the care of state property when no other provision is made, and the providing for the necessary running expenses of officers or departments, from a fund left for that purpose, when the laws do not otherwise provide. This often enables emergencies arising in the administration of affairs to be met without an extra session of the legislature. Many new duties have recently been given to the council, including the appointment and removal of many minor state officials. It appoints the Board of examiners for state mine inspectors. It may remove from office for causes defined by statute the following officers: curator of the state historical society; members of the Board of educational examiners; director of weather



and crop service; fish and game warden; the commissioners of pharmacy; Board of dental examiners; members of the Board of parole; dairy commissioners; custodians of public buildings; state veterinary surgeon; oil inspectors; commissioners of animal health; inspectors of boats; Board of optometry examiners; members of the library commission. The salaries of members are fixed at \$1200 per year.

**The Attorney-General.** The chief duties of the attorney-general are to furnish legal advice to all state officers when requesting such advice, and to prosecute all cases in civil and criminal actions in which the state may be a party. As all criminal offenses are crimes against the state he must take charge of such cases when appealed from the lower courts to the supreme court of the state. He may begin action in the district courts when enforcing laws for the removal of county or city officers. In all civil cases in which the state is a party he must represent the state. Members of the general assembly as well as state officers may ask his legal opinion on matters pertaining to legislation. He serves for two years and receives a salary of \$4000 per year.

**Superintendent of Public Instruction.** The duties of the state superintendent have been slightly diminished by recent laws creating the State Board of Education and the Board of examiners. He has general supervision over county superintendents and the common schools of the state. He may call meetings of county superintendents for the more uniform and efficient administration of school law, but he has no authority to compel attendance. When called upon he may determine the time of holding county institutes for teachers and assist in their management and instruction. As a member of the Board of educational examiners he may pass upon the qualifications of teachers.

He has the collection and publication of a large amount of statistics and other information about the public schools. He receives an annual salary of \$4000.

## QUESTIONS

1. Which is of the more immediate importance to the people — the local government or the state government?
2. What are the qualifications for the governor of Iowa?
3. What power has the governor as a peace officer of the state?
4. When may the president of the senate vote? When the speaker of the house?
5. State the law of succession to the office of governor.
6. Mention the duties of the secretary of state.
7. From whence comes the school fund cared for by the auditor?
8. Who constitute the executive council? What are their duties?
9. What are the duties of the attorney-general?
10. What authority has the state superintendent over rural schools?

## CHAPTER XVI.

### THE CONSTITUTION OF IOWA

*(Continued)*

#### THE EXECUTIVE DEPARTMENT

**Railroad Commissioners.** This Board consists of three members who are elected by the people and serve for four years and receive a salary of \$2200 each, per year, and necessary traveling expenses. They have general supervision over all railroads and express companies within the state. It is their duty to enforce laws governing the hauling of freight, that short hauls must be at same rate per mile as long hauls; to prevent pooling; to require the schedule of prices and rates to be posted in a conspicuous place in every station and to enforce passenger rates determined by the legislature. They may also require railroads to furnish such equipment as are provided by law for the protection of public health and safety.

The Board may with the approval of the Senate, appoint a commerce counsel from among the attorneys of the state, whose duty it is to prosecute cases of violation of law by the railroads. He holds office for four years and receives \$5000 annually.

**The Board of Control.** The Board of control was created by an act of the legislature of 1898. This Board has control over all charitable, reformatory, and penal institutions of the state. The Board consists of three

members appointed by the governor and confirmed by the Senate. The tenure of office is six years and one member goes out of office every two years. The member whose term first expires is chairman for the last two years of his term. Each member receives an annual salary of \$3000 and traveling expenses.

This Board has full and entire control of all institutions placed under its charge, subject only to the will of the legislature. They employ superintendents and other officers and determine their duties. They regulate the discipline within the institutions and determine the rules governing the conduct of inmates except as the legislature may direct by statute. The chief object of the Board's creation was to establish uniformity in the control of the different institutions and to reduce expenses to the state by purchasing supplies in large quantities and at wholesale rates. At present the Board controls the following institutions:

The State Sanatorium for Tuberculosis at Oakdale (near Iowa City).

The School for the Deaf at Council Bluffs.

The Iowa Soldiers' Home at Marshalltown.

The Iowa Soldiers' Orphans' Home at Davenport.

The Institution for Feeble-Minded Children at Glenwood.

The Industrial School for Boys at Eldora.

The Industrial School for Girls at Mitchellville.

The State Hospital for Inebriates at Knoxville.

The State Hospital for Female Inebriates at Mt. Pleasant.

The State Hospital for the Insane at Mt. Pleasant.

The State Hospital for the Insane at Independence.

The State Hospital for the Insane at Clarinda.

The State Hospital for the Insane at Cherokee.

The Penitentiary at Fort Madison.

The Reformatory at Anamosa.

The Industrial Reformatory for Females at Anamosa.

**The State Board of Education.** The legislature of 1909 passed an act creating this Board. The demand

for greater uniformity in the administration of higher education in the state had much to do with the passage of this act. The Board consists of nine members appointed by the governor and confirmed by a two-thirds vote of the Senate, and removable from office by the governor with the consent of the Senate. They serve for a term of six years and one-third are appointed to office every two years. Not more than five members may belong to any one political party and not more than one alumnus from either institution may belong to the Board at one time.

The Board has complete control over the educational institutions of the state, including the State University at Iowa City, the State College of Agriculture at Ames, the State Teachers College at Cedar Falls, and the College for the Blind at Vinton. Subject to the will of the legislature the Board controls these institutions in the minutest details. The Board fills all positions, administrative, academic and clerical; fixes compensations; makes rules and regulations for their government, and controls the property belonging to them. Much of the real control of each institution is given by the Board to the administrative head and to the faculty.

The Board is assisted in financial affairs and in the details of the work by a finance committee of three members, chosen by the Board from outside their own numbers. The members of the committee devote their entire time to the work assigned to them by the Board and receive a yearly salary of \$3500 and traveling expenses. The members of the Board are paid \$7 per day for the actual number of days spent in service, not to exceed sixty days per year.

**The Board of Educational Examiners.** This Board consists of five members, three of whom are ex officio



members by virtue of being the Superintendent of Public Instruction, the President of the State University, and the President of the State Teachers College. The other two, one of whom must be a woman, are appointed by the governor for a period of four years. The duties of the Board are: to inspect and approve of institutions desiring official recognition for the preparation of teachers; to hold examinations for state diplomas and state certificates; to issue state diplomas and state certificates and uniform county certificates. The ex officio members receive only actual expenses, while the two appointed members receive \$3 per day and necessary expenses.

**Board of Parole.** The Board consists of three members appointed by the governor and confirmed by the Senate. The term of office is six years, one member being appointed every two years. It is the duty of the Board of parole to make rules and regulations governing the paroling of prisoners sentenced to the penitentiaries for less than life sentences. The Board itself has no power to pardon or parole as that power is given by the Constitution to the governor, but the duty of the Board is to assist the governor in investigating applications. After such investigation has been made, the Board may recommend such application to the governor, who may then at his discretion exercise his power of pardon or of parole. The Board holds at least four sessions each year and each member receives \$10 per day as compensation.

**Board of Health.** The attorney-general and the state veterinary surgeon are members ex officio of the Board, together with a civil engineer and seven physicians, who are appointed by the governor and approved by the executive council. The term of service is seven years and no compensation, except necessary traveling expenses, is paid. The Board may hire a secretary, who may receive

as much as \$3000 per year as compensation. The duties of the Board relate almost entirely to the preservation of the public health. They are frequently called to investigate contagious diseases and determine their causes, and to examine the water supply of towns and cities. They may license undertakers and dispose of unclaimed bodies.

## QUESTIONS

1. What are the duties of the railroad commissioners?
2. In what respect has the state Board of control been a great saving to the state?
3. Name and locate the different state institutions under the charge of the state Board of control.
4. What are the duties of the state Board of education?
5. What are the duties of the state Board of educational examiners?
6. To whom does the Constitution give the power to pardon offenses against the state?
7. What are the duties of the Board of parole?
8. Who constitutes the state Board of health?
9. Name the most important administrative Boards in Iowa and state their duties.

# OTHER ADMINISTRATIVE BOARDS AND OFFICERS

NAME	NO.	HOW CHOSEN	TERM	SALARY	POWERS AND DUTIES
Board of Curators of State Historical Society.	18	Nine appointed by governor and nine elected by society.	2 yrs.	None	Has charge of the State Historical Society and care of its collections. Prepares publications.
Board of Dental Examiners.	5	Appointed by the governor.	5 yrs.	\$5 per day.	Examines and licenses applicants to practice dentistry in Iowa.
Board of Examiners for Mine Inspectors.	5	Appointed by Executive Council.	2 yrs.	\$5 per day.	Examines and grants certificates to those qualified to act as mine inspectors.
Board of Law Examiners.	5	Attorney-General ex-officio and 4 others appointed by Supreme Court.	2 yrs.	\$15 per day.	Examines applicants for admission to the bar.
Board of Library Trustees.	9	Governor, Secretary of State, Superintendent Public Instruction, Supreme Court Judges.	While in office.	No salary	Elects a State Librarian, and selects curators for the Historical Department of State Library. Has charge of State Library.
Board of Medical Examiners.	7	Physicians of State Board of Health.	While on Board of Health.	\$8 per day.	Examines and licenses practicing physicians in medicine or osteopathy.
Board of Optometry Examiners.	5	The Secretary and one physician of the Board of Health. Three optometrists.	1 yr.	\$5 per day.	Examines and licenses persons practicing optometry.
Board of Voting Machine Commissioners.	3	Appointed by Governor.	5 yrs.	Fees from those served.	Examines voting machines as to accuracy and efficiency.

Bureau of Labor Statistics.	1	Appointed by Governor.	2 yrs.	\$1800 per yr.	Inspects factories, enforces child labor laws, collects data on labor conditions.
Custodian of Public Buildings.	1	Appointed by Governor with consent of Senate.	2 yrs.	\$1500	Cares for the capitol grounds and buildings, contracts for fuel and light
Commission of Animal Health.	5	Appointed by Governor.	3 yrs.	\$200 per yr.	Makes regulations controlling contagious animal diseases, examines and licenses practicing veterinarians.
Commission of Pharmacy	3	Appointed by Governor.	3 yrs.	\$5 per day.	Examines and grants certificates to applicants to become registered pharmacists.
Director of weather and crop service.	1	Appointed by Governor.	2 yrs.	\$1500	Tabulates statistics of weather reports, establishes two or more weather and crop stations in each county.
Dairy and Food Commissioner.	1	Appointed by Governor.	2 yrs.	\$2700	Enforces pure food laws and inspects dairies and creameries.
Fish and Game Warden	1	Appointed by Governor.	3 yrs.	\$1600	Appoints deputies to aid in enforcing fish and game laws. Restocks and distributes fish and game in state.
Geological Board	5	Governor, Pres. State Univ., Pres. Agri. College, Pres. Academy of Science, State Auditor.	While holding office.	Actual expenses only.	Appoints a state geologist and assistants.

# OTHER ADMINISTRATIVE BOARDS AND OFFICERS

NAME	NO.	HOW CHOSEN	TERM	SALARY	POWERS AND DUTIES
Hotel Inspector		Appointed by Governor.	7 yrs.	\$1500.	Enforces laws regarding fire-escapes, construction, sanitation. Must inspect hotels when complaint is made.
Inspector of Bees	1	Appointed by Governor.	2 yrs.	\$3 per day.	Inspects bees and advises concerning care of them.
Library Commission.	7	State Librarian, Supt. of Public Instruction, Pres. of the Univ., 4 App. Members.	5 yrs.	None	Elects a secretary and assistants. Aids in establishing libraries in state. Maintains circulating library.
State Binder.	1	Elected by General Assembly.	2 yrs.	Fees.	Binds the laws, journals and other state publications.
State Inspector of Boats.	1 or more	Appointed by Governor.	2 yrs.	Fees.	Inspects boats and issues licenses to engineers and pilots.
State Fire Marshal.	1	Appointed by Governor and Senate.	4 yrs.	\$2500.	Investigates causes of fires. Enforces laws against unsafe buildings. Compels fire-escapes.
State Inspectors of Oils.	14	Appointed by Governor.	2 yrs.	Fees.	Examines and tests oils sold on market.
State Mine Inspectors.	3	Appointed by Governor.	3 yrs.	\$1800.	Enforces laws regarding safety, ventilation, and sanitation of mines.
State Printer.	1	Elected by General Assembly.	2 yrs.	Fees.	Prints all state laws and publications.



State Veterinary Surgeon.	1	Appointed by Governor.	3 yrs.	\$1800.	Inspects animals for contagious or infectious diseases.
Superintendent of Weights and Measures.	1	Appointed by Governor.	At pleasure of Governor.	\$50.	Keeps and cares for the standards of weight and measure of the state. Tests weights used in business to detect shortages.
State Board of Agriculture.	19	Governor and ex officio members.	1 and 2 yrs.	\$4 per day. and mileage.	Promotes agricultural industries throughout the state.
State Highway Commission.		The State College of Agriculture.			To further the interest in good roads. Advise with county officers for road making. Submitting plans and designs for road building.
State Registrar of Vital Statistics.	1	He is Sec. of the Board of Health.			Enforces laws concerning the collection of vital statistics.

## CHAPTER XVII.

### THE CONSTITUTION OF IOWA

*(Continued)*

#### JUDICIAL DEPARTMENT

The judiciary may be defined as the law interpreting department of the government. The legislative department makes the laws for the state and local governments, and the executive department carries these laws into effect. If the legislature in making a law, exceeds its authority, or if the officers of the executive department refuse to perform their duties, government is a failure unless some remedy is provided. It is the duty of the judiciary to test the constitutionality of laws and determine whether the legislature has exceeded its powers and whether the law enacted is just. It is furthermore the duty of the judiciary to bring a delinquent officer before the court and compel him to do his duty, or punish him for refusing. Thus one duty of the court is to act as a compelling force over the executive, and another duty is to guard the rights of the people by checking the legislature.

The real function of the courts is to interpret law. This does not always seem clear. In the above instance, when the court compels an executive officer to do his duty it would seem that the court itself were exercising executive power. This is not true. The laws of the state clearly provide the duties and powers of executive

officers, and the court is only interpreting law when it compels the officer to perform his legal duties. The most important work of the court is to determine conflicts arising between individuals in their ordinary business transactions. Sometimes laws are not well written and give occasion to various interpretations. Sometimes one individual will attempt to evade a law, or to misapply it to the injury of another. Sometimes a law is well understood, but not willingly observed. In these instances the aggrieved party may seek relief in the courts. When an offense is so serious as to be called a crime, the state is the aggrieved party and the action is brought in the name of the state. The question as to the facts is determined by a jury which hears the evidence. The court then declares the law applying to this case and renders a decision accordingly.

## ARTICLE V — JUDICIAL DEPARTMENT

**COURTS.** *Section 1.* The judicial power shall be vested in a supreme court, district court, and such other courts, inferior to the supreme court, as the general assembly may, from time to time, establish.

**SUPREME COURT.** *Sec. 2.* The supreme court shall consist of three judges, two of whom shall constitute a quorum to hold court.

**JUDGES ELECTED.** *Sec. 3.* The judges of the supreme court shall be elected by the qualified electors of the state, and shall hold their court at such time and place as the general assembly may prescribe. The judges of the supreme court so elected shall be classified so that one judge shall go out of office every two years; and the judge holding the shortest term of office under such classification shall be chief justice of the court during his term, and so on in rotation. After the expiration of their terms of office, under such classification, the term of each judge of the supreme court shall be six years, and until

his successor shall have been elected and qualified. The judges of the supreme court shall be ineligible to any other office in the state during the term for which they shall have been elected.

**JURISDICTION.** *Sec. 4.* The supreme court shall have appellate jurisdiction only in cases in chancery, and shall constitute a court for the correction of errors at law, under such restrictions as the general assembly may by law prescribe; and shall have power to issue all writs and process necessary to secure justice to parties, and exercise a supervisory control over all inferior judicial tribunals throughout the state.

**DISTRICT COURT AND JUDGE.** *Sec. 5.* The district court shall consist of a single judge, who shall be elected by the qualified electors of the district in which he resides. The judge of the district court shall hold his office for the term of four years; and until his successor shall have been elected and qualified; and shall be ineligible to any other office, except that of judge of the supreme court, during the term for which he was elected.

**JURISDICTION.** *Sec. 6.* The district court shall be a court of law and equity, which shall be distinct and separate jurisdictions, and have jurisdiction in civil and criminal matters arising in their respective districts, in such manner as shall be prescribed by law.

**CONSERVATORS OF THE PEACE.** *Sec. 7.* The judges of the supreme and district courts shall be conservators of the peace throughout the state.

**STYLE OF PROCESS.** *Sec. 8.* The style of all process shall be "The State of Iowa," and all prosecutions shall be conducted in the name and by the authority of the same.

**SALARIES.** *Sec. 9.* The salary of each judge of the supreme court shall be \$2000 per annum, and that of each district judge \$1600 per annum, until the year eighteen hundred and sixty, after which time they shall severally receive such compensation as the general assembly may, by law, prescribe, which compensation shall not be increased or diminished during the term for which they shall have been elected.\*

The present salary of each judge of the supreme court is \$6000, and that of the district judges, \$3500.

\* See amendment and comment following Section 10.

**JUDICIAL DISTRICTS.** *Sec. 10.* The state shall be divided into eleven judicial districts; and after the year eighteen hundred and sixty the general assembly may reorganize the judicial districts and increase or diminish the number of districts, or the number of judges of the said court, and may increase the number of judges of the supreme court; but such increase or diminution shall not be more than one district, or one judge of either court, at any one session; and no reorganization of the districts or diminution of the judges shall have the effect of removing a judge from office. Such reorganization of the districts, or any change in the boundaries thereof, or any increase or diminution of the number of judges, shall take place every four years thereafter, if necessary, and at no other time.

(AMENDMENT.) At any regular session of the general assembly, the state may be divided into the necessary judicial districts for district-court purposes, or the said districts may be reorganized and the number of the districts and the judges of said courts increased or diminished; but no reorganization of the districts or diminution of the judges shall have the effect of removing a judge from office.\*

The number of judicial districts in the state is now twenty, and the number of judges in each district varies from one to five.

**WHEN CHOSEN.** *Sec. 11.* The judges of the supreme and district courts shall be chosen at the general election; and the term of office of each judge shall commence on the first day of January next after his election.

**ATTORNEY-GENERAL.** *Sec. 12.* The general assembly shall provide, by law, for the election of an attorney-general by the people, whose term of office shall be two years, and until his successor shall have been elected and qualified.

**COUNTY ATTORNEY.** *Sec. 13.* The qualified electors of each county shall, at the general election in the year eighteen hundred and eighty-six, and every two years thereafter, elect a county attorney, who shall be a resident of the county for which he is elected, and shall hold his office for two years, and until his successor shall have been elected and qualified.

\* The foregoing was submitted to the electors at the general election in 1884, as a proposed amendment to the Constitution, and was by them adopted.

**CARRYING INTO EFFECT.** *Sec. 14.* It shall be the duty of the general assembly to provide for the carrying into effect of this article, and to provide for a general system of practice in all the courts of this state.

**THE GRAND JURY.** *Sec. 15.* The grand jury may consist of any number of members not less than five, nor more than fifteen, as the general assembly may by law provide, or the general assembly may provide for holding persons to answer for any criminal offense without the intervention of the grand jury.

The judicial system of Iowa now comprises a supreme court, district courts, superior courts, justices' courts, and municipal courts. The source of authority for the first four courts is the Constitution. The municipal courts are provided for by acts of the legislature. It will be observed that the courts are arranged in a graded series from lower to higher, so that minor and less important cases may be settled in the lower courts, while the higher tribunals are allowed more time for the trial and settlement of more important cases.

**The Supreme Court.** The legislature has the power to increase the number of judges in the supreme court. There are now six judges who serve for a term of six years and receive a yearly compensation of \$6000. Two judges are elected every two years by the people at the general election. The older of the two judges having the shortest term yet to serve, is chief justice during the first year and his colleague during the second year. The court holds three regular terms each year, beginning in January, May and September.

The jurisdiction of the supreme court is almost entirely appellate — that is, it hears cases having begun in a lower court and having been taken by appeal up to the supreme court. It has original jurisdiction in only two instances — in mandamus and certiorari cases. It ex-



ercises a supervisory jurisdiction over all inferior courts of the state, and has as its chief function the correction of errors at law committed in the decisions of lower courts. The cases appealed to the supreme court are not retried, except equity cases, but are reviewed as to matters of law, to determine if the lower court committed any error in the application or in the interpretation of the law. The decisions of the supreme court are final, except in a very few instances, which may be carried to the supreme court of the United States. If the judges are equally divided in their opinion, the judgment of the lower court is always sustained.

The clerk of the supreme court and the reporter are elected by the people and hold office for four years. The clerk keeps a complete record of the proceedings of the court, files all printed matter and papers in the cases, issues orders to carry out the directions of the court, files and enters the opinions of the court and delivers them to the reporter for publication. The reporter prepares from the opinions of the court the printed digests known as the "Supreme Court Reports."

**Decisions.** The decisions of the supreme court are considered as the interpretation of law within the state. All lower courts in the state follow, as nearly as possible, the decisions of the supreme court. If they were to do otherwise their decisions could be appealed from and the case carried to the supreme court, where it would be reversed.

**District Courts.** There are now twenty judicial districts in Iowa, having from one to five judges in each district. The establishment of such districts is within the power of the legislature, which may increase or diminish either the number of districts or the number of judges. District judges are elected by the people for a term of four years

and receive a compensation of \$3500 per year. The district court holds four sessions each year in each county. Its jurisdiction extends to the trial of all offenses and crimes committed against the laws of the state. It will be remembered, however, that certain minor offenses may, with the consent of both parties, be tried in a justice's court.

**Superior Courts.** A superior court may be established in any city having a population of 4000 or more, if a majority of the people favor such court. Its name, doubtless, arose out of the fact that when such court is created, it not only displaces the police or mayor's court and takes exclusive jurisdiction of all cases arising under the city ordinances, but it is superior to such courts in that it has concurrent jurisdiction with the district court in all civil matters, except in probate cases, actions for divorce, alimony, and separate maintenance. This court also has concurrent jurisdiction with the justice of the peace, and cases may be appealed to this court from the justices in the township. If both parties consent, cases may be appealed from any justice of the peace in the county. This so-called superior court is inferior to the district court in that criminal cases may be appealed from this court to the district court.

The judge of the superior court is elected by the voters of the city, holds his office for a term of four years, and receives a yearly compensation of \$2000. One-half of the yearly salary is paid by the city and the other half by the county. In cities having a population of 25,000 or more the salary is \$3000. Such court offers advantages to cities somewhat distant from the county seat. In 1912, there were seven cities in Iowa having superior courts, as follows: Cedar Rapids, Council Bluffs, Grinnell, Keokuk, Oelwein, Perry, Shenandoah.

**Justices' Courts.** The justices of the peace are elected by the people in the townships for a period of two years and are paid by fees. They have power to try petty cases in both civil and criminal matters. They have jurisdiction over criminal cases involving not more than thirty days' imprisonment, or a fine of one hundred dollars, and over civil cases, where the value in controversy does not exceed one hundred dollars, or with the consent of both parties the amount may be three hundred dollars. No record of the proceedings is kept other than the names of the cases tried. A justice's court may have a jury of six men.

**Prosecuting Attorneys.** The judicial machinery of the state would be of very little value in the actual administration of government were it not for the services rendered by the county attorneys and the attorney-general. Each county has a county attorney whose duty it is to prosecute all cases arising in his county, in which the state is a party, when brought in either the justice's court in the township or in the district court in the county. When a case is appealed from the district court of the county to the supreme court of the state, the attorney-general takes charge of the case. He may retain the county attorney to assist him if he cares to do so. In all cases affecting state officers directly the attorney general assumes charge of the case immediately. He may begin action in a district when enforcing laws for the removal of county or city officers.

## QUESTIONS

1. Name the different courts in Iowa.
2. Why is the judicial department necessary in government?
3. How are judicial districts in the state created?
4. Has the state supreme court any original jurisdiction?
5. What relation does the county attorney have to the courts?
6. Could the general assembly abolish trial by jury in state cases in Iowa?
7. Which party to a suit is called the plaintiff? Which the defendant?
8. What is the difference between the superior courts and the district courts?
9. May a party to a suit waive the right of trial by jury?
10. What is the difference between a case at common law and a case in equity?

## CHAPTER XVIII.

### THE CONSTITUTION OF IOWA

*(Continued)*

#### THE SELECTION OF JURIES

**Who May Act.** “All qualified electors of the state, of good moral character, sound judgment, and in full possession of the senses of hearing and seeing, and who can speak, write and read the English language, are competent jurors in their respective counties.”

**Who are Exempt.** All persons holding office under the laws of the United States or this state; all practicing attorneys, physicians, dentists, registered pharmacists, and clergymen; all acting professors or teachers of any college, school or other institution of learning; and all persons disabled by bodily infirmity, or over sixty-five years of age; active members of any fire company; and any person who is conscientiously opposed to acting as a juror because of his religious faith.

**Who May be Excused.** Any person may also be excused from serving on a jury when his own interests and those of the public will be materially injured by his attendance, or when the state of his own health, or the death or sickness of a member of his own family, requires his absence from court. Any person who knowingly makes false affidavit, statement, or claim for the purpose of escaping jury service may be fined not exceeding one hundred

dollars, or by imprisonment in the county jail, not exceeding thirty days.

**Grand Jury Defined.** A grand or presentment jury is a body of men called to investigate complaints of criminal offenses, and if cause be found, to draw up a true bill against the accused. This bill is called an indictment. In the United States the number constituting a grand jury is a matter of local regulation, and is frequently determined by the state Constitution or by the legislature. Iowa has provided that seven men may constitute a grand jury.

**Petit Jury Defined.** A petit, or trial jury, is a body of twelve men, selected according to law, impaneled and sworn to inquire into and try any matter of fact, and to render their true verdict according to the evidence legally adduced. Trial by jury is guaranteed by the Constitution of the United States in all civil cases except upon impeachments, and in all suits in common law where the subject matter of the controversy exceeds twenty dollars in value. This refers only to trials in the Federal courts, and places no restriction whatever upon state courts. States may in their own Constitutions dispense with trial by jury both in civil and criminal cases. When the Constitution of a state preserves the right of trial by jury inviolate, the legislature cannot change the number of jurors in either civil or criminal cases.

**Process of Selection.** (1) On or before the first Monday in September in each year, the county auditor shall apportion the number of grand and petit jurors to be selected among the several election precincts, and the talesmen among the precincts from which the same are to be drawn, in each case as nearly as practicable in proportion to the number of votes polled in such precincts



at the last general election. (2) The auditor furnishes to the judges a statement of the number of persons apportioned to their respective precincts to be returned for each of the jury lists. This statement is sent out with the pooling books just before the election. (3) The judges of election make the selection of names and return the lists of names so selected to the auditor along with the election returns. Such lists are composed only of persons competent and qualified to serve as jurors. (4) On or before the first Monday in December each year, the county auditor and clerk of the district court shall prepare from these lists separate ballots, containing names of all persons so returned. These different classes of names are kept separate and are deposited in separate boxes for the grand jurors, the petit jurors, and the talesmen, and are plainly marked and sealed and deposited with the clerk of the district. For the grand jury list 75 names are selected from the whole county court. For the petit jury, 400 names are selected in counties of 20,000 population or less, and 800 in counties over 20,000 population. For the talesmen, 150 names are selected in counties having 20,000 population or less, and 300 names in counties having more than 20,000 people. (5) At least twenty days prior to first day of each term of court, the clerk, auditor and recorder draw twelve names from the box containing the grand jury list, which names shall constitute a panel from which to select grand jurors for one year. Not more than one person shall be grand juror from any township except there be less than twelve civil townships in the county. From the box containing names for the petit jury, the clerk, auditor and recorder shall draw fifteen names in counties of 15,000 people or less, and twenty-four in counties of over 15,000 people. (6) On the second day of each term of court the clerk places in a box the twelve names constituting the grand jury panel and

draws from it seven names, which persons shall constitute the grand jury for that term. If the panel for the petit jury is exhausted, either through excuses granted or through challenges made when selecting a jury for a particular case, the panel shall be again increased by the clerk, auditor and recorder again drawing names from the box containing the petit jury list. (7) If when trying a case, the petit jury list is exhausted or the panel is exhausted and those on the list cannot be reached, the clerk shall in the presence of the court, draw such number of names as the court may order from the talesmen box to complete the jury.

**Challenges.** Either party to a suit may challenge the whole panel of the petit jurors, or any individual juror. If the challenge is made to the panel, it must be in writing, specifying the grounds of the objection. If this objection is sustained by the court another panel is drawn. A challenge to an individual juror is either peremptory or for cause. A peremptory challenge is an objection to a juror for which no reason need be given. Challenge to array means a challenge to the whole jury. Each party to a suit has the right to make five peremptory challenges. Any number of jurors may be challenged for cause. The cause must be such as will be recognized by the judge.

**Fees of Jurors.** Each juror shall receive two dollars for each day's service or attendance in the district court, and for each mile traveled from his residence to the place of trial, the sum of ten cents.

## QUESTIONS

1. Who may act as jurors in Iowa, and who are exempt?
2. What are the duties of a grand jury? Of a petit jury?
3. What is meant by a challenge to a jurorman?
4. May women serve on a jury in Iowa courts?
5. Describe the process in full of choosing grand and petit juries.

## CHAPTER XIX.

### THE CONSTITUTION OF IOWA

(Continued)

#### ARTICLE VI — MILITIA

WHO CONSTITUTE. *Section 1.* The militia of this state shall be composed of all able-bodied male citizens between the ages of eighteen and forty-five years, except such as are or may hereafter be exempt by the laws of the United States, or of this state; and shall be armed, equipped, and trained, as the general assembly may provide by law.

EXEMPTION. *Sec. 2.* No person or persons conscientiously scrupulous of bearing arms shall be compelled to do military duty in time of peace; *provided*, that such person or persons shall pay an equivalent for such exemption in the same manner as other citizens.

OFFICERS. *Sec. 3.* All commissioned officers of the militia (staff officers excepted) shall be elected by the persons liable to perform military duty and shall be commissioned by the governor.

**The Militia.** Militia is a general term referring to all able-bodied male citizens, between the ages of eighteen and forty-five years, not otherwise exempt from military duty. The assessor reports the names of persons eligible for military service to the county auditor, who in turn sends the corrected lists to the adjutant-general. "The Iowa National Guard" is the active militia of the state. It is made up of volunteer enlistments, and consists of four regiments of infantry, and at the discretion of the commander-in-chief, of two batteries of artillery and two troops of cavalry, with the necessary staff department.

In case of breach of the peace, or tumult, or riot, the sheriff of any county may call for aid from any commanding officer of any military company within his county. The sheriff must immediately notify the governor of such action. If greater force is needed to preserve order, the sheriff calls on the governor for more companies of troops. When the President of the United States makes a requisition for troops, the governor as commander-in-chief must order into service the National Guard of the state, or such portion of it as may be necessary. If this force is not sufficient, the governor calls for as much of the militia as is necessary to make up the required number. The militia is first chosen from volunteers, but if a sufficient number do not volunteer, the remainder are designated by means of draft.

## ARTICLE VII — STATE DEBTS

CREDIT NOT TO BE LOANED. *Section 1.* The credit of the state shall not, in any manner, be given or loaned to, or in aid of, any individual, association, or corporation; and the state shall never assume, or become responsible for, the debts or liabilities of any individual, association, or corporation, unless incurred in time of war for the benefit of the state.

LIMITATION. *Sec. 2.* The state may contract debts to supply casual deficits or failures in revenues, or to meet expenses not otherwise provided for; but the aggregate amount of such debts, direct and contingent, whether contracted by virtue of one or more acts of the general assembly, or at different periods of time, shall never exceed the sum of \$250,000; and the money arising from the creation of such debts shall be applied to the purpose for which it was obtained, or to repay the debts so contracted, and to no other purpose whatever.

LOSSES TO SCHOOL FUNDS. *Sec. 3.* All losses to the permanent school or university fund of this state, which shall have been occasioned by the defalcation, mismanagement, or fraud of the agents or officers controlling and managing the same,

shall be audited by the proper authorities of the state. The amount so audited shall be a permanent funded debt against the state, in favor of the respective fund sustaining the loss, upon which not less than six per cent annual interest shall be paid. The amount of liability so created shall not be counted as a part of the indebtedness authorized by the second section of this article.

**WAR DEBTS.** *Sec. 4.* In addition to the above limited power to contract debts, the state may contract debts to repel invasion, suppress insurrection, or defend the state in war; but the money arising from the debts so contracted shall be applied to the purpose for which it was raised, or to repay such debts, and to no other purpose whatever.

**QUESTION OF INCURRING DEBT SUBMITTED.** *Sec. 5.* Except the debts hereinbefore specified in this article, no debt shall be hereafter contracted by, or on behalf of, this state, unless such debt shall be authorized by some law for some single work or object, to be distinctly specified therein; and such law shall impose and provide for the collection of a direct annual tax sufficient to pay the interest on such debt as it falls due, and also to pay and discharge the principal of such debt within twenty years from the time of the contracting thereof; but no such law shall take effect until at a general election it shall have been submitted to the people, and have received a majority of all the votes cast for and against it at such election; and all money raised by authority of such law, shall be applied only to the specific object therein stated, or to the payment of the debt created thereby; and such law shall be published in at least one newspaper in each county, if one is published therein, throughout the state, for three months preceding the election at which it is submitted to the people.

**LEGISLATURE MAY REPEAL.** *Sec. 6.* The legislature may, at any time, after the approval of such law by the people, if no debt shall have been contracted in pursuance thereof, repeal the same; and may at any time forbid the contracting of any further debt, or liability, under such law; but the tax imposed by such law, in proportion to the debt or liability which may have been contracted in pursuance thereof, shall remain in force and be irrepealable, and be annually collected, until the principal and interest are fully paid.

**TAX IMPOSED DISTINCTLY STATED.** *Sec. 7.* Every law which imposes, continues, or revives a tax, shall distinctly state



the tax, and the object to which it is to be applied; and it shall not be sufficient to refer to any other law to fix such tax or object.

The Constitution carefully guards the credit of the state and prevents the loss of money through unwise business transactions of the legislature. Section 1 prevents any corporation or association having great political influence from using the state as a tool or agent for the purpose of securing money. Provision is, however, made in Section 2, whereby the legislature may meet emergencies and may contract debts to the extent of \$250,000. If a loss occurs in the permanent school fund of the state the Constitution provides that such loss may be made good by the state paying into the annual income from the school fund, such sum as would equal the interest on the amount lost. In time of war or invasion the state may contract debts in excess of the amount allowed during peace, but the money raised for such purpose cannot be expended for any other.

## ARTICLE VIII — CORPORATIONS

HOW CREATED. *Section 1.* No corporation shall be created by special laws; but the general assembly shall provide by general laws, for the organization of all corporations hereafter to be created, except as hereinafter provided.

PROPERTY TAXABLE. *Sec. 2.* The property of all corporations for pecuniary profit shall be subject to taxation the same as that of individuals.

STATE NOT TO BE A STOCKHOLDER. *Sec. 3.* The state shall not become a stockholder in any corporation, nor shall it assume or pay the debt or liability of any corporation, unless incurred in time of war for the benefit of the state.

MUNICIPAL CORPORATION. *Sec. 4.* No political or municipal corporation shall become a stockholder in any banking corporation, directly or indirectly.



**ACT CREATING BANKING ASSOCIATIONS.** *Sec. 5.* No act of the general assembly, authorizing or creating corporations of associations with banking powers, nor amendments thereto, shall take effect, or in any manner be in force, until the same shall have been submitted, separately, to the people, at a general or special election, as provided by law, to be held not less than three months after the passage of the act, and shall have been approved by a majority of all the electors voting for and against it at such election.

**STATE BANK.** *Sec. 6.* Subject to the provisions of the foregoing Section, the general assembly may also provide for the establishment of a state bank with branches.

**SPECIE BASIS.** *Sec. 7.* If a state bank be established, it shall be founded on an actual specie basis, and the branches shall be mutually responsible for each other's liabilities upon all notes, bills and other issues intended for circulation as money.

**GENERAL BANKING LAW.** *Sec. 8.* If a general banking law should be enacted, it shall provide for the registry and countersigning, by an officer of state, of all bills, or paper credit designed to circulate as money, and require security to the full amount thereof, to be deposited with the state treasurer, in United States stocks or in interest-paying stocks of states in good credit and standing, to be rated at ten per cent below their average value in the city of New York, for the thirty days next preceding their deposit; and in case of a depreciation of any portion of such stocks, to the amount of ten per cent on the dollar, the bank or banks owning said stock shall be required to make up said deficiency by depositing additional stocks; and said law shall also provide for the recording of the names of all stockholders in such corporations, the amount of stock held by each, the time of any transfer, and to whom.

**STOCKHOLDERS RESPONSIBLE.** *Sec. 9.* Every stockholder in a banking corporation or institution shall be individually responsible and liable to its creditors, over and above the amount of stock by him or her held, to an amount equal to his or her respective shares so held, for all its liabilities accruing while he or she remains such stockholder.

**BILL-HOLDERS PREFERRED.** *Sec. 10.* In case of the insolvency of any banking institution, the bill-holders shall have a preference over its other creditors.

**SUSPENSION OF SPECIE PAYMENTS.** *Sec. 11.* The sus-

pension of specie payments by banking institutions shall never be permitted or sanctioned.

AMENDMENT OR REPEAL OF CHARTERS; EXCLUSIVE PRIVILEGES. *Sec. 12.* Subject to the provisions of this article, the general assembly shall have power to amend or repeal all laws for the organization or creation of corporations, or granting of special or exclusive privileges or immunities, by a vote of two-thirds of each branch of the general assembly; and no exclusive privileges, except as in this article provided, shall ever be granted.

The legislature enacts general laws governing corporations. Among the powers given to corporations are the following: to have perpetual succession; to sue and be sued by its corporate name; to have a common seal which it may alter at pleasure; to render the interests of the stockholders transferable; to exempt the private property of its members from liability for corporate debts, except as otherwise declared; to make contracts and to acquire and transfer property as a natural person; to establish by-laws and make rules and regulations for managing their affairs. Before commencing business, every corporation for pecuniary profit must be recorded with the county recorder of the county in which it operates and with the secretary of state at Des Moines.

Section 6 provides for the establishment of state banks. These banks were, by Sections 7 and 8, given power to issue notes to circulate as money. Such power still exists, but is no longer used by state banks. State banks were often not well protected by laws governing their charters, and they became insolvent and the money issued by them became worthless. On March 3, 1865, Congress passed an act laying a ten per cent tax on all state bank notes paid out of any bank. This drove all state bank bills out of circulation. Since that time the issuance of bank notes to circulate as money has been confined to national banks.

Every stockholder in a bank is held liable for double the amount of stock held by him in case of failure of the bank. If a person has shares to the extent of \$1000 face value, he is liable to the extent of \$2000 if the bank fails.

## ARTICLE IX—SCHOOL FUNDS AND SCHOOL LANDS

UNDER CONTROL OF THE GENERAL ASSEMBLY. *Section 1.* The educational and school fund and lands shall be under the control and management of the general assembly of this state.

PERMANENT FUND. *Sec. 2.* The university lands, and the proceeds thereof, and all moneys belonging to said fund, shall be a permanent fund for the sole use of the state university. The interest arising from the same shall be annually appropriated for the support and benefit of said university.

LANDS APPROPRIATED. *Sec. 3.* The general assembly shall encourage, by all suitable means, the promotion of intellectual, scientific, moral, and agricultural improvement. The proceeds of all lands that have been, or hereafter may be, granted by the United States to this state, for the support of schools, which may have been or shall hereafter be sold, or disposed of, and the five hundred thousand acres of land granted to the new states, under an act of Congress, distributing the proceeds of the public lands among the several states of the Union, approved in the year of our Lord one thousand eight hundred and forty-one, and all estates of deceased persons who may have died without leaving a will or heir, and also such per cent as has been or may hereafter be granted by Congress, on the sale of lands in this state, shall be, and remain a perpetual fund, the interest of which, together with all rents of the unsold lands, and such other means as the general assembly may provide, shall be inviolably appropriated to the support of common schools throughout the state.

FINES, ETC.; HOW APPROPRIATED. *Sec. 4.* The money which may have been or shall be paid by persons as an equivalent for exemption from military duty; and the clear proceeds of all fines collected in the several counties for any breach of the penal laws, shall be exclusively applied in the several counties in which such money is paid, or fine collected, among

the several school districts of said counties, in proportion to the number of youth subject to enumeration in such districts, to the support of common schools, or the establishment of libraries, as the board of education shall from time to time provide.

PROCEEDS OF LANDS. *Sec. 5.* The general assembly shall take measures for the protection, improvement, or other disposition of such lands as have been or may hereafter be reserved or granted by the United States, or any person or persons, to this state, for the use of the university; and the funds accruing from the rents or sale of such lands, or from any other source for the purpose aforesaid, shall be, and remain a permanent fund, the interest of which shall be applied to the support of said university for the promotion of literature, the arts and sciences, as may be authorized by the terms of such grant. And it shall be the duty of the general assembly, as soon as may be, to provide effectual means for the improvement and permanent security of the funds of said university.

AGENTS OF SCHOOL FUNDS. *Sec. 6.* The financial agents of the school funds shall be the same that, by law, receive and control the state and county revenue for other civil purposes, under such regulations as may be provided by law.

DISTRIBUTION. *Sec. 7.* The money subject to the support and maintenance of common schools shall be distributed to the districts in proportion to the number of youths between the ages of five and twenty-one years, in such manner as may be provided by the general assembly.

The chapter of this book entitled, "The Cost of Education," will furnish adequate explanation of the provisions of the Constitution as set forth in Article IX.

## ARTICLE X—AMENDMENTS TO THE CONSTITUTION

HOW PROPOSED; SUBMISSION. *Section 1.* Any amendment or amendments to this Constitution may be proposed in either house of the general assembly; and if the same shall be agreed to by a majority of the members elected to each of the two houses, such proposed amendment shall be entered on their journals, with the yeas and nays taken thereon, and re-

ferred to the legislature to be chosen at the next general election, and shall be published, as provided by law, for three months previous to the time of making such choice; and if, in the general assembly so next chosen as aforesaid, such proposed amendment or amendments shall be agreed to by a majority of all the members elected to each house, then it shall be the duty of the general assembly to submit such proposed amendment or amendments to the people in such manner, and at such time as the general assembly shall provide; and if the people shall approve and ratify such amendment or amendments by a majority of the electors qualified to vote for members of the general assembly, voting thereon, such amendment or amendments shall become a part of the Constitution of this state.

MORE THAN ONE. *Sec. 2.* If two or more amendments shall be submitted at the same time, they shall be submitted in such manner that the electors shall vote for or against each of such amendments separately.

CONVENTION. *Sec. 3.* At the general election to be held in the year one thousand eight hundred and seventy, and in each tenth year thereafter, and also at such times as the general assembly may, by law, provide, the question, "Shall there be a convention to revise the Constitution, and amend the same?" shall be decided by the electors qualified to vote for members of the general assembly; and in case a majority of the electors so qualified, voting at such election for and against such proposition, shall decide in favor of a convention for such purpose, the general assembly, at its next session, shall provide by law for the election of delegates to such convention.

## ARTICLE XI — MISCELLANEOUS

CIVIL JURISDICTION OF THE JUSTICE OF THE PEACE. *Section 1.* The jurisdiction of justices of the peace shall extend to all civil cases (except cases in chancery and cases where the question of title to real estate may arise) where the amount in controversy does not exceed one hundred dollars, and by the consent of parties may be extended to any amount not exceeding three hundred dollars.)

COUNTIES. *Sec. 2.* No new county shall be hereafter created containing less than four hundred and thirty-two square miles; nor shall the territory of any organized county be re-



duced below that area; except the county of Worth, and the counties west of it, along the northern boundary of this state, may be organized without additional territory.

**INDEBTEDNESS OF POLITICAL CORPORATIONS.** *Sec. 3.* No county or other political or municipal corporation shall be allowed to become indebted in any manner or for any purpose to an amount, in the aggregate, exceeding five per cent of the value of the taxable property within such county or corporation — to be ascertained by the last state and county tax lists, previous to the incurring of such indebtedness.

**BOUNDARIES.** *Sec. 4.* The boundaries of the state may be enlarged with the consent of Congress and the general assembly.

**OATH OF OFFICE.** *Sec. 5.* Every person elected or appointed to any office shall, before entering upon the duties thereof, take an oath or affirmation to support the Constitution of the United States, and of this state, and also an oath of office.

**HOW VACANCIES ARE FILLED.** *Sec. 6.* In all cases of elections to fill vacancies in office occurring before the expiration of a full term, the person so elected shall hold for the residue of the unexpired term; and all persons appointed to fill vacancies in office shall hold until the next general election, and until their successors are elected and qualified.

**LAND GRANTS LOCATED.** *Sec. 7.* The general assembly shall not locate any of the public lands which have been or may be granted by Congress to this state, and the location of which may be given to the general assembly, upon lands actually settled, without the consent of the occupant. The extent of the claim of such occupant so exempted shall not exceed three hundred and twenty acres.

**SEAT OF GOVERNMENT; STATE UNIVERSITY.** *Sec. 8.* The seat of government is hereby permanently established, as now fixed by law, at the city of Des Moines, in the county of Polk; and the state university at Iowa City, in the county of Johnson.

## ARTICLE XII — SCHEDULE

Article XII of the Constitution, known as the schedule, contains sixteen sections and was for the most part drawn up at the time of the revision of the Constitution in 1857.



The last chapters have been added since. The schedule is a statement of the provisions necessary to the starting of the government under the new Constitution. The sixteenth Section, adopted in 1904, which deals with the subject of biennial elections is given below:

**BIENNIAL ELECTIONS.** *Sec. 16.* The first general election after the adoption of this amendment shall be held on the Tuesday next after the first Monday in November in the year one thousand nine hundred and six, and general elections shall be held biennially thereafter. In the year one thousand nine hundred and six there shall be elected a governor, lieutenant-governor, secretary of state, auditor of state, treasurer of state, attorney-general, two judges of the supreme court, the successors of the judges of the district court whose terms of office expire on December 31, one thousand nine hundred and six, state senators who would otherwise be chosen in the year one thousand nine hundred and five, and members of the house of representatives. The terms of office of the judges of the supreme court which would otherwise expire on December 31, in odd-numbered years, and all other elective state, county and township officers, whose terms of office would otherwise expire in January in the year one thousand nine hundred and six, and members of the general assembly whose successors would otherwise be chosen at the general election in the year one thousand nine hundred and five, are hereby extended one year and until their successors are elected and qualified. The terms of offices of senators whose successors would otherwise be chosen in the year one thousand nine hundred and seven are hereby extended one year and until their successors are elected and qualified. The general assembly shall make such changes in the law governing the time of election and terms of office of all other elective officers as shall be necessary to make the time of their election and terms of office conform to this amendment, and shall provide which of the judges of the supreme court shall serve as chief justice. The general assembly shall meet in regular session on the second Monday in January, in the year one thousand nine hundred and six, and also on the second Monday in January in the year one thousand nine hundred and seven, and biennially thereafter.

[By proper legislative action (29 G. A. joint res. No. 5 and

30 G. A. joint res. No. 1) a proposed amendment, adding the foregoing Section number 16 to Article XII, was submitted to the electors at the general election in 1904, and adopted. Practically the same amendment was adopted by the people, November 6, 1900, but the supreme court February 1, 1901, in the case of the State of Iowa, ex rel Marsh W. Bailey, *vs.* S. W. Brookhart, respondent, appellant, held that the amendment, Section 16, was not proposed and adopted as required by the Constitution, and did not become a part thereof.]

## QUESTIONS

1. Distinguish between the state militia and the National Guard.
2. May a Quaker be compelled to serve in the National Guard?
3. May a foreigner visiting in Iowa be compelled to aid the sheriff in restoring peace if called upon?
4. To what extent may the state of Iowa control debts contracted by the state legislature?
5. If losses to the permanent school fund occur, how may they be repaid?
6. How may the state incur additional debts during the time of war?
7. Could the general assembly of Iowa bond the state of Iowa for the construction of public highways?
8. If a bank becomes insolvent, for how much is each stockholder liable under the Iowa laws?
9. What is a corporation? Is a church a corporation?
10. May the state become a stockholder in a corporation?

## CHAPTER XX.

### POLITICAL PARTIES IN IOWA

A political party in a republican form of government is an organized means whereby the people may give expression to their political opinions and wishes. It is by means of party organization that people control their political institutions. When Iowa was organized as a separate territory in 1838, there were two leading political parties in the country. The Democratic Party was then in power and had been in charge of the government since the beginning of Jackson's administration. The Whig Party, which was the successor of the Adams, Clay and Crawford forces, had assumed the name Whig in 1834, and had as its leaders Clay, Webster and Harrison. Iowa became a territory during the Democratic administration of Van Buren and was given Democratic officers during its first period of territorial organization. Robert Lucas, an Ohio Democrat, was appointed by President Van Buren as the first territorial governor and William B. Conway was chosen secretary. The first territorial legislature was elected in 1838 and contained a large Democratic majority. A Democratic delegate was elected to Congress by a vote of 4492 to 913. In 1841, with the inauguration of Harrison and Tyler, who were of the Whig Party, the territory was given Whig officers, but the legislature remained Democratic. The Liberty and Free Soil Parties never had a large or important following in Iowa.

**Early Political Issues.** The slave question was an issue in early territorial and state government, although it never

reached the point of bitter strife as in the states farther south where slavery was profitable. In 1848, the Whigs declared themselves opposed to the extension of slavery, and in 1856, the Republican Party followed the Whigs in advocating no interference with slavery where it existed, but no further extension of slave territory. The tariff has been an issue between the Republican and Democratic Parties since the beginning of the state government. The strife has never been bitter, because the state is primarily agricultural with but few large manufacturing industries. The Constitution of 1846 was not friendly towards corporations organized for pecuniary profits. They could be organized by the legislature, but acts creating corporations with banking powers had to be referred to the people for their approval. The legislature was also given power, by a two-thirds vote of each branch, to amend or repeal all laws creating corporations, and the state was denied the right to become a stockholder in any corporation. The bank question caused considerable discussion as a National issue between the Democratic and Whig Parties. The state Constitution of 1845 forbade the organization of banks for the issuance of paper money. The Whigs were strongly opposed to this provision. The Constitution of 1846 gave the election of supreme court judges to the legislature. The Whigs were strongly opposed to such manner of choice and were joined by many disaffected Democrats. In the revision of the Constitution of 1857, the election of judges was given to the people.

In 1848, the spirit of railroad building took possession of Iowa. The general assembly asked Congress to grant public lands consisting of alternate sections for a distance of five miles on either side of the proposed roadways. Two roads were projected, one from Davenport *via* Iowa City to Des Moines, then to Council Bluffs; the other was to extend from Dubuque to Iowa City, then to Keokuk.

The first land grant made by Congress for railroads was in 1856.

The temperance movement throughout Iowa during the early period resulted in the passage of stringent laws regulating the sale of intoxicating liquors. Saloons were declared a nuisance and the manufacture and sale of liquors was forbidden. In 1847, a local option law was voted upon. It provided that counties could grant licenses for the retailing of liquor. This act was defeated by the people, but it did not destroy liquor traffic. Liquor was sold contrary to law. In 1849, a law was passed giving local option to the counties. This resulted in the defeat of liquor selling in the prohibition counties, but not in others. In 1851, an act was passed providing that the people of the state should take no share in the profits of retailing liquor, but that the sale of liquor as merchandise was not prohibited. In 1855, the first prohibitory liquor law was enacted and ratified by a vote of the people. This law, however good in its provisions, was not enforced and liquor continued to be sold. It was followed in 1857 by a license law which was declared to be unconstitutional by the supreme court in the same year. In 1858, the law was so amended as to legalize the sale of ale, wine and beer, and to some extent local option was carried out.

**The Democratic Party.** The Democratic Party, as known to American politics, was organized under the leadership of Andrew Jackson previous to the campaign of 1828. It had been in control of the government ten years previous to the territorial organization of Iowa. Party politics had assumed definite shape in the eastern counties of Iowa, when the region was yet a part of Wisconsin territory. With the organization of Iowa territory in 1838, President Van Buren appointed a full quota of



Democratic officers to organize the new government. The Democrats continued to control the politics of the territorial legislature for several years, although they lost the appointive officers of the territory in 1841, with the advent of the Whig Party. The Democrats in the early days championed squatter sovereignty and the rights of the people. In 1842, they urged statehood, because they said that would give the state the right and privilege of selecting its own officers, who would then be directly responsible to the people. Previous to 1854, Iowa was Democratic, except that Whig officers were chosen by the president from 1841 to 1845. Since 1854, the Republican Party has been supreme, with the exceptions of two terms of Democratic administration under Governor Horace Boies, from 1890 to 1894.

**The Whig Party.** The Whig Party had its origin in the political consolidation of the National Republicans and the other anti-slave factions about the year 1834. The Whig Party in Iowa was organized at Bloomington in July, 1840. The territorial election that year resulted in the choice of fifteen Democrats and eleven Whigs to the house of representatives, and of seven Whigs and six Democrats to the council. The Whig Party never had a clear-cut statement of principles and was never thoroughly organized. Its history in Iowa as a local party was no exception to the history of the party in the nation. It advocated one term for the presidency; a sound national currency; just protection to American labor; distribution of public land proceeds among the states. In 1845, the state Constitution contained a provision which forbade the organization of banks for the issuance of paper money. The Whigs objected to this, but were unable to change it. The only Whig governor elected under the state organization was James W. Grimes.



**The Republican Party.** The Republican Party was the successor to the Whigs and the other political factions opposed to the further extension of slavery. It originated in meetings held in Wisconsin and Michigan during the year 1854. It became a state party in some of the north-west states during 1854 and made its first entrance into National politics in the campaign and election of 1856. In 1855, James W. Grimes, who had been elected governor on the Whig ticket of 1854, began a systematic campaign in Iowa to unite the factions of the anti-slave parties into a solid formation. This resulted in the following year in the Republican Party of Iowa, which had as its chief political principle "no interference with slavery where it exists, but no further extension of slave territory." Governor Grimes, the organizer of the party, came to be known as the "Father of Republicanism in Iowa." The Party platform in Iowa in 1856 declared in favor of the liberty of the people, the sovereignty of the states and the perpetuity of the Union. It declared that the agents of the Federal Government alone should construe the powers of the Constitution and the acts of Congress. It advocated Federal abolition of slavery within Federal jurisdiction, and asked the states to abolish slavery within their borders. The Republican Party has been in power in Iowa since 1860, except during four years from 1890-94.

**Other Parties.** Besides the Republican and Democratic Parties, which have controlled the government of Iowa since the beginning, the other present-day parties are: the Prohibition Party; the Socialist Party; the People's Party; and the Independence Party. Of these various parties the Prohibition Party has polled the largest vote in recent years. In the election of 1910, the Prohibition Party polled 10,120 votes for governor, while the Socialist Party followed next in order with 9681. In this same

election the Republicans polled 205,653 votes for governor, and the Democrats 187,316.

**Later Political Issues.** Slavery was the chief issue from 1854 till the close of the Civil War. The Whigs were strongly opposed to the repeal of the Missouri Compromise as was done by the passage of the Kansas-Nebraska Bill. The new Republican Party strongly advocated non-extension of slavery. In 1855, a platform was adopted advocating the colonization of negroes as the best means of settling the slave question. This of course meant they should not have equal political rights with the whites.

The revision of the state Constitution in 1857 was made a political issue. The Republicans advocated greater freedom of election in naming state officers and wished to have supreme court judges elected by the people instead of chosen by the legislature. In 1858, the Democrats opposed the Republican provision in the Constitution providing for the education of both white and colored children. They thought negroes ought not to be admitted to the schools.

The tariff issue has continued to be the leading issue between the Democratic and the Republican Parties. In general, the Republicans have advocated a tariff for protection to home industries in addition to that of furnishing revenue. The Democrats have held that the government ought to have only such tariff as is necessary to pay the running expenses of the government. During the recent campaigns the two parties seem to have come much closer together on this great issue. Progressive Republicans advocate a reduction of tariff rates, while the Democrats approve of a low tariff.

The sentiment against intemperance gradually increased after the close of the Civil War. In the campaigns of 1867 and 1868 the contest was sharp between license and

and prohibition. In 1867, the Democrats advocated a well-regulated license law, and this plank appeared in the Democratic platform for the next twenty years. The Republicans favored prohibition, but were not strong enough in their support of it to adopt it as an issue. In 1870, a local option law was enacted, but it was not satisfactory to either side, and in 1871 it was declared unconstitutional. By 1875 the dissatisfaction of the prohibition element in both parties became so strong as to cause the formation of a third party, since known in Iowa as the Prohibition Party. This party has continued to grow until it is now strong enough to force the Republicans and Democratic Parties to adopt its fundamental principles or meet defeat at the poles. In 1894, the Mulct Law was enacted, which amended the prohibitory law to the extent of permitting local option in towns and counties where the people so declare.

## QUESTIONS

1. Which political parties were printed on the ballot in the general election of 1912?
2. Which party was in power in National politics when Iowa was a territory?
3. What were the leading political issues in Iowa while it was yet a territory?
4. Who was the first noted Whig and Republican leader in Iowa?
5. What issues have been prominent in recent politics in Iowa?

## CHAPTER XXI.

### POLITICAL PARTY MACHINERY

**Committees.** In National politics each political party places the interests of the party in the hands of a National committee consisting of one member from each state and territory. This committee determines the date for holding the National nominating convention, raises campaign funds, prints and distributes campaign literature, provides speakers, organizes political clubs, etc.

Each party in the state has a similar organization known as the state central committee. It consists of one member from each Congressional district. The state central committee works for the interests of the party in the state in about the same manner that the National committee works through the several states. The state committee tries to carry the state ticket for its party and to win the support of the state in the National election. The organization is generally carried still further and each county has a county committee composed of one member from each township. In some instances, the townships choose committees to take charge of party interests there. All these different committees have the same object in view — to carry their party to victory at the general election.

**Methods of Choosing Candidates.** Candidates may be named or selected by either of three methods — the caucus, the convention, or the primary election. A caucus is an assemblage of voters of a party for the purpose of naming candidates or for choosing delegates to a convention. A caucus is composed of all voters of a party

who wish to attend, and is therefore purely democratic in character. The caucus is generally held in townships, towns, or cities. It is presided over by a chairman, and a secretary is selected to take the minutes. The convention is an assemblage of delegates who have been chosen to represent smaller political bodies, or units of government. It is representative in character and not purely democratic. The object of the convention is the same as that of the caucus — the naming of candidates for office or for choosing delegates to a higher convention. The convention generally calls a temporary chairman to the chair until a permanent chairman and a secretary are chosen. The primary election system of choosing candidates is where the party holds an election, at which time all members of the party may go and vote by ballot for the persons of their choice as candidates. The person or persons receiving the highest number of votes being the candidate of the party.

**Machinery at Work.** Five or six months preceding a general election, the chairman of the local committee, or a leading politician of the party, calls a township or city caucus. This is generally done through newspaper announcements giving the date and place of the meeting. In the townships such meetings are generally held in school-houses, while in towns the town halls are selected. All voters having voted for the party at the general election are recognized as qualified. The meeting is called to order and a presiding officer is chosen. The chairman then announces the local offices to be filled and the delegates to be chosen to the next higher convention. Candidates are then selected for the offices to be filled and are generally chosen by acclamation. Delegates are then named, and comprise as many as the township or town are entitled to according to the last general election. Resolutions are



then presented commending past actions of the party and recommendations are made of what principles ought to be advocated by the party in the coming campaign. The caucus thus described is the only purely democratic party organization—the convention next above the caucus being representative in character.

The county convention meets some time after the town and township caucuses. The chairman of the county central committee determines the time of calling the convention. This convention formerly nominated the candidates for county offices, as well as elected delegates to the state convention, but since the enactment of the primary election law in 1907, candidates for township and county offices have been selected by the primary. Other conventions are held throughout the state, such as district conventions for selecting of candidates for district judges. The state convention consists of delegates chosen by the county conventions and is still used to nominate candidates for the office of judge of the supreme court, and to choose delegates from the state to the party National nominating convention.

**The Primary Election.** The legislature of 1907 enacted the Primary Election Law. It provides that “the candidates of political parties for all offices which under the law are filled by the direct vote of the voters of this state at the general election in November (except candidates for the office of judge of the supreme, district, and superior courts), for the office of Senator in the Congress of the United States, and for the office of elector of the President and the Vice-President of the United States, shall be nominated at a primary election, and delegates to the county conventions of said political parties or organizations, and party county committeemen shall be elected at said primary election.” The law also provides that the

election shall be held at the usual voting places of the several precincts, on the first Monday in June, 1908, and biennially thereafter. The law defines a primary election as, "an election by the members of various political parties for the purpose of placing in nomination candidates for public office, for selecting delegates to conventions, and for the selection of party committeemen." A political party is defined as "a party, which at the last preceding general election, cast for its candidate for governor at least two per centum of the total vote cast at said election."

No candidate for an elective county office shall have his name printed upon the official primary ballot of his party unless at least thirty days prior to the day fixed for holding the primary election a nomination paper shall have been filed in his behalf in the office of the county auditor; and no candidate for nomination for an elective state office, or for representative in the Congress of the United States, or member of the general assembly, shall have his name printed upon the official primary ballot of his party, unless at least forty days prior to such primary election a nomination paper shall have been filed in his behalf in the office of the secretary of state; and no member of a political party desiring or intending to be a candidate for the office of Senator in the Congress of the United States, or a candidate for the office of elector of the President or the Vice-President of the United States, shall have his name printed upon the official primary ballot of his party in any election precinct unless at least forty days prior to such primary election a nomination paper shall have been filed in his behalf in the office of the secretary of state. A candidate for an office to be filled by the voters of a sub-division of a county shall not be required to file any nomination paper or papers.

A nomination paper for a state office, United States Senator, or elector at large, must be signed by at least one

percentum of the voters of the party (as shown by the returns of the last general election) of such candidates, in each of at least ten counties of the state, and in the aggregate not less than one-half of one percentum of the total vote of his party in the state, as shown by the last general election; a nomination paper for a Representative in Congress, district elector, or senator in the general assembly in districts composed of more than one county, by at least two percentum of the voters of his party, as shown by the last general election, in at least one-half of the counties of the district, and in the aggregate not less than one percentum of the total vote of his party in such district, as shown by the last general election; a nomination paper for an office to be filled by the voters of a county, by at least two percentum of the party vote in the county, as shown by the last general election.

## QUESTIONS

1. What is the object of the party organization known as the National Committee?
2. What are the advantages of the convention system of choosing party candidates? What are the disadvantages?
3. What are the advantages and disadvantages of the primary system?
4. Who pays the expense of delegates to the National nominating conventions?
5. Describe in full the method of selecting delegates by the primary elections.

## CHAPTER XXII.

### SOCIAL AND ECONOMIC LEGISLATION

**Iowa Land Grants.** The early economic development of Iowa was greatly aided by land grants made by Congress to the railroad interests of the state. As early as 1846, Congress granted the alternate sections of land along the Des Moines River for a distance of six miles along either side for the improvement of the river as a channel of navigation. In 1856, Congressional land grants were made for the building of four railroads across the state. The total amount of land donated for the purpose of economic improvement was estimated at 4,394,400 acres. These grants of land were an important factor in the civil and social development of the state, and offer a partial explanation for the very rapid settlement of Iowa and for its early material prosperity. The lands thus granted were distributed among the different railroads as follows:

Burlington and Missouri River .....	292,806 acres
Mississippi and Missouri River .....	482,374 acres
Cedar Rapids and Missouri River.....	735,997 acres
Dubuque and Sioux City .....	1,232,359 acres
McGregor and Sioux City .....	137,572 acres
Des Moines Valley .....	1,105,381 acres
Sioux City and St. Paul .....	407,910 acres

**Corporations in the State.** Iowa has from the beginning maintained a liberal attitude towards corporations. Railroads, factories, banks, telegraphs, and express companies, telephones, and incorporated business firms are flourishing

under Iowa law. The state has, however, maintained a considerable supervisory control over such business corporations as are most closely related to the people's interests. Insurance companies, loan and trust companies, building and loan associations must submit to state supervision by the auditor. Railroads, telegraphs, telephones and express companies must have their charters registered with the state and submit their franchises to taxation by the state. Certain kinds of health and accident associations are prohibited, while some kinds of corporations for pecuniary profit can only be created after the law creating them has been referred to and accepted by a vote of the people.

**Labor Legislation.** In recent years, the people of Iowa, have rapidly become a business and manufacturing people as well as an agricultural people. The working classes have come to demand special legislation protecting their interests and their welfare. The relations between capital and labor are becoming more urgent in demanding legislation defining the rights and privileges of each. The legislature has enacted laws determining the hours of labor and the age at which children may be employed. Laws also exist relative to the employment of women in factories, and relative to the securing of safe and sanitary conditions in factories. Factory operators may be held liable for accidents arising through negligence of the owner or through the use of unsafe machinery. Labor unions for the protection of the laborer's rights and privileges exist throughout the state. Laws exist for the suppression of riots, strikes, and lockouts, and when necessary the organized militia of the state may be called out to protect property and to assist the civil authority in maintaining order.

**Organized Charity.** During the year 1904, the different counties of Iowa spent \$960,275 for poor relief, not includ-



ing the soldier's relief fund, nor did it include the large sum expended that year by private individuals, lodges, churches and general charity organizations. About forty towns and cities in Iowa have organized charity associations under various names, while the King's Daughters, Woman's Christian Temperance Union, Woman's Relief Corps, Silent Ministry and other similar organizations do charity work in many places having regular organized charity. Such cities as Des Moines, Davenport, Burlington, Council Bluffs, Keokuk and others, have regular paid secretaries to take charge of charity work. In such cities the work is done on a systematic basis and great saving in the amount of money given has resulted, as well as a much better and wiser distribution to the deserving.

In addition to the above voluntary organizations, the state maintains hospitals for the insane and the feeble-minded, and for inebriates, schools for the deaf and the blind, homes for orphan children, county farms for the poor in each county, and through the county supervisors and the township trustees material assistance in the form of money and supplies is given to the poor.

**Health Legislation.** Modern governments consider it a duty of the state to protect the health of its citizens as well as to protect their liberties. The state law has provided a Board of health whose duty it is to inspect the water supply of cities, make rules concerning the quarantine of contagious diseases, compel vaccination to prevent the spread of disease, compel the observance of sanitary regulations, etc. Foods are now analyzed and inspected and labeled as to composition; drinking water may be sent to the state chemist for analysis; legislation is enacted concerning public drinking cups, construction of fire-escapes required; doors on public buildings must swing out, and various other regulations are provided to insure greater safety to

the individual. The state no longer hesitates to compel the individual to abide by laws for the better health and sanitary regulations of the community.

**Protection of Morals.** It is difficult to legislate effectively on morals. The morals of a community will not rise higher than the public sentiment will support. Public sentiment depends almost entirely upon the character of the individuals living in the community. It is the aim of the state to legislate concerning such actions of the people as are injurious to the better life of the community, and to lay down rules and regulations for the control of such persons as do not of their own accord realize their personal responsibility to the community life.

Laws have been enacted preventing the carrying of firearms, the desecration of the Sabbath, the using of profane language in public places, and the exercise of such practices as tend to lower or destroy the good character of others. Sunday dancing, shooting, hunting, horse-racing, baseball playing and other similar amusements are forbidden by law. In 1907, the legislature passed an act prohibiting baseball games, horse racing, and other similar sports on Memorial Day before three o'clock in the afternoon. Prize fighting in Iowa is punishable by a fine of not less than \$100 or more than \$1000. The enforcement of all such laws as the above depends much upon the public sentiment of the community.

**Natural Resources.** The rapid depletion of our natural resources has caused the people of Iowa to enact legislation for the purpose of preserving what is left of forests, minerals, water power, wild game, etc. Arbor Day is now observed in practically all of the public schools, and the spirit of tree planting is rapidly spreading among the people of the state until many farmers are starting large groves on waste lands. Laws have been enacted

preventing the taking of game fish from the streams of Iowa, except during the proper season. Quails, prairie chickens and other wild game, cannot be killed during the brooding season. Every year the Federal Government furnishes the state with millions of small fish with which to stock the streams, and the state maintains fish hatcheries for the raising and distributing of fish. English pheasants and Hungarian partridges have been brought to the state by the game warden and turned loose in various counties. Education in the grades and rural schools has done much to interest children in the song birds and birds of plumage, and is aiding much in the prevention of their wanton destruction.

## QUESTIONS

1. What effect did the railroad land grants have upon the development of the state?
2. What are the leading railroad lines across the state of Iowa to-day?
3. Why should corporate enterprises be subject to legal restrictions?
4. Do you believe in organized labor? Why? Do you believe in organized capital? Why?
5. Has this county any form of organized charity? If so, what?
6. Does the law prohibiting the carrying of firearms contravene the provisions of the Constitution of the United States giving the people the right to keep and bear arms?
7. What is meant by the conservation of natural resources?

## CHAPTER XXIII.

### TAXATION

**Necessity of Taxation.** Government is for the protection of the privileges and rights of the people. Prosperity, happiness and contentment, can rule only where people feel secure in person, and know their personal rights and privileges are carefully guarded. In order that government may be effective in thus serving the people, a great amount of governmental machinery must be maintained. Executive officers by thousands are needed to administer the government. Legislators almost as numerous must make the laws. Judges in nation, state, district, county and municipality must interpret law and punish offenses. All of these officers must receive a just compensation. Salaries of officers in some states amount to millions of dollars each year. Public roads must be made and kept in repair, bridges built, streets paved, public buildings erected, charitable and penal institutions maintained, schools supported and the general moral and intellectual interests of the community provided for. All of this costs an enormous amount of money each year. People ought, in return for these privileges, pay the expenses of maintaining government. In order that each person may pay proportionately to the assistance he receives, some method must be used to make such apportionment. Taxation is the only means by which governments may exist. Furthermore, if taxes are justly imposed, they furnish the best means of apportioning the cost of government among the people.

**Kinds of Taxes.** Taxes are divided into two general classes — direct and indirect. A direct tax is a tax paid by the individual to the government directly. It may be either a sum of money or an amount of labor, rendered directly to the government. An indirect tax is a tax paid as a portion of the cost of the article. It is paid by the consumer, who pays the tax as a part of the cost price, and often without thinking, or even knowing, that he pays tax. Poll tax, land tax, and property tax are good examples of direct taxes. Duties, imposts, and excise taxes are examples of indirect taxes. At present, in the United States, direct taxes are levied by state and municipal authority. Congress has levied direct taxes on only five occasions in our history. The people of the states do not pay Federal taxes as we commonly consider the term tax. The expenses of the Federal Government are paid by duties, imposts and excises. It is only with direct taxes that we are dealing in this chapter.

**The Process of Taxation.** The first step in the process of taxation is making the tax levy. By making the tax levy we mean determining the amount to be raised, or the amount of tax necessary to pay the expenses of the state during a certain period. This is done in the following manner. The state legislature determines the amount to be raised for state purposes. This is based largely upon the required expenditure of the previous year. It is a very complex problem and must be carefully worked out by a committee chosen for that purpose. The local Board of supervisors of each county makes a careful estimate of the necessary expenses to run the county for the next year. This amount is also based largely upon the necessary expenses of the previous year. The township trustees in turn estimate the amount of money necessary to pay the running expenses of the township. The council in the



city or town determines the amount to be raised for the support of the municipality. Each of these authorities determines the amount of revenue for that local unit and also determines the amount of taxable property, from the assessors' books, in that unit. These facts are submitted to the county auditor, who adds to the tax required for the expenses of each town, city, and township, the tax of the county and that of the state, and then determines the millage for each township and for each town and city.

The second step in the process of taxation is the assessment of property, which is done by the assessors in the towns and townships. The assessor must assess every person of age within his assessment district. Women who possess neither real estate nor personal property have no taxes. Every male citizen between the ages of twenty-one and forty-five years must pay poll tax in addition to real estate and personal property taxes unless exempt for cause. It is the duty of the assessor to find all taxable property in his district, and to estimate its cash value. In Iowa, property is listed at its cash value and is taxed for one-fourth that value.

The third step in taxation is the equalization of taxes. Each unit of government has a Board whose duty it is to hear complaints and to make proper adjustments known as equalization of taxes. In the township this Board is the Board of trustees; in the towns or cities, the council; in the county, the Board of supervisors; and for the state, the executive council. These Boards have the power of raising or lowering the assessments, with the right of the aggrieved parties to appeal to the courts.

The fourth step is the collection of taxes. The county treasurer is the collector of all taxes. The assessors report to the Boards of equalization, who in turn send the assessors' lists of all taxable property to the county auditor. The auditor prepares the tax list from the assessors' books

The tax list consists of the names of all persons in the county subject to taxes and the amount each must pay. The auditor then turns the tax list over to the county treasurer, who is the collector of all taxes. It is the duty of every person who has taxes to pay to call at the office of the county treasurer, or at the office of one of his deputies, and pay his taxes. Taxes may be paid in either one or two installments. They may be paid in full between the first Monday in January and the first day of March. They may be paid in two installments, one-half before the first day of March and the second half before the first day of September. The first half becomes delinquent on the first day of April, and the second the first day of October. If taxes are not paid before they become delinquent, they draw interest at the rate of one per cent per month until paid. On the first Monday in December, the county treasurer offers for sale all real estate upon which delinquent taxes remain unpaid.

**Difficulties of Taxation.** The present system of taxation is not altogether satisfactory. One difficulty is in the work of the assessor. If he is not well experienced and quite rigid in his investigations, the tax-payer may take advantage of him and give in a valuation lower than what is correct. Secondly, it is difficult to know whether the taxpayer's own estimate is correct, however conscientious he may be. Thirdly, a very large amount of property is held in stocks, bonds, mortgages, and other similar securities, which are difficult to find if the owner omits them or refuses to list them. Furthermore, such property as is purchased after the first of January is not taxable to the person holding it if disposed of before the first day of the next January. In 1911, the legislature provided for a tax commission, to be appointed by the governor, to investigate the subject of taxation in Iowa and to recommend to the state a more equitable method of taxation.

**Exemption from Taxation.** Federal property located in the states, such as post-office buildings, forts, arsenals, etc., cannot be taxed by the states. Neither do states tax their own state property, such as capital buildings, court houses, public buildings of the county, etc. The property of religious, benevolent, scientific and literary institutions is generally exempt. Such property includes churches, asylums, public sanitariums and hospitals, schools, libraries, etc. The state may, however, tax these institutions, and it sometimes happens that local authorities do tax them. A mechanic's tools, a teamster's team and wagon, a workman's material equipment whereby he earns his living, and a professional man's working library are not subject to taxation. Young livestock under a certain age is exempt. Honorably discharged soldiers and sailors are allowed an exemption of personal property to the extent of \$1200.

## QUESTIONS

1. Is the principle of taxation a just principle of government?
2. What is meant by a graduated tax?
3. What is meant by single tax system?
4. Ought a man owning \$20,000 worth of property pay a higher rate of interest on the second \$10,000 than on the first \$10,000?
5. Define direct tax, indirect tax, customs, tariffs, poll tax, inheritance tax, income tax, road tax.
6. Do the citizens of Iowa pay any direct taxes for the support of the Federal Government.
7. Is a man honest who knowingly tells the assessor that his property is worth less than it really is?
8. Trace out the entire process of levying and collecting taxes.

## APPENDIX

### IOWA EDUCATIONAL INSTITUTIONS

State University of Iowa. Iowa City.  
Iowa State Teachers College. Cedar Falls.  
Iowa State College of Agriculture and Mechanic Arts. Ames.  
State College for the Blind. Vinton.  
State School for the Deaf and Dumb. Council Bluffs.  
Amity College. College Springs.  
Buena Vista College, Storm Lake.  
Central College. Pella.  
Charles City College. Charles City.  
Coe College. Cedar Rapids.  
Cornell College. Mount Vernon.  
Des Moines College. Des Moines.  
Drake University. Des Moines.  
Ellsworth College. Iowa Falls.  
Graceland College. Lamoni.  
Highland Park College. Des Moines.  
Grinnell College. Grinnell.  
Iowa Wesleyan College. Mount Pleasant.  
Leander Clark College. Toledo.  
Lenox College. Hopkinton.  
Luther College. Decorah.  
Morningside College. Sioux City.  
Oskaloosa College. Oskaloosa.  
Parsons College. Fairfield.  
Penn College. Oskaloosa.  
Simpson College. Indianola.  
St. Joseph College. Dubuque.  
Upper Iowa College. Fayette.  
Wartburg College. Clinton.  
Western Normal College. Shenandoah.  
Western Union College. Lemars.

# CONSTITUTIONAL CONVENTIONS OF IOWA

## THIRD CONSTITUTIONAL CONVENTION

*Convened at Iowa City, January 19, 1857. Adjourned March 5, 1857.*

DIST.	COUNTIES	NAMES OF MEMBERS
1	Lee .....	Edward Johnstone, William Patterson.
2	Lee and Van Buren .	Squire Ayers.
3	Van Buren .....	Timothy Day.
4	Des Moines.....	Jonathan C. Hall, Moses W. Robinson.
5	Davis .....	David P. Palmer.
6	Jefferson .....	James F. Wilson.
7	Henry.....	Rufus L. B. Clarke.
8	Wapello .....	George Gillaspy.
9	Monroe, Lucas and Clarke .....	John Edwards.
10	Appanoose, Wayne, and Decatur .....	Amos Harris.
11	Fremont, Mills, Page, Taylor, Montgom- ery, Ringgold, Adams and Union	Daniel H. Solomon.
12	Pottawattamie, Harri- son, Shelby, Wood- bury, Monona, Audubon, Crawford, Carroll, Calhoun, Sac, Ida, Cherokee, Buena Vista, Poca- hontas, Palo Alto, Emmet, Clay, Dick- inson, Osceola, O'Brien, Plymouth, Sioux, Buncombe ..	Daniel W. Price.
13	Louisa .....	Francis Springer.
14	Washington .....	David Bunker.
15	Keokuk .....	Jeremiah Hollingsworth.
16	Mahaska .....	James A. Young.
17	Marion.....	Hiram D. Gibson.
18	Warren, Madison, Adair, and Cass ...	Lewis Todhunter.
19	Muscatine .....	John A. Parvin.
20	Johnson and Jones ..	William Penn Clarke.



DIST.	COUNTIES	NAMES OF MEMBERS
21	Scott .....	George W. Ells.
22	Cedar .....	Robert Gower.
23	Clinton .....	Aylett R. Cotton.
24	Linn .....	Hosea W. Gray.
25	Linn, Benton, Black Hawk and Buchanan	James C. Traer.
26	Poweshiek, Jasper, Marshall and Tama	Harvey J. Skiff.
27	Polk, Dallas and Guthrie .....	Thomas Seeley.
28	Jackson .....	William A. Warren.
29	Jackson and Jones ...	Albert H. Marvin.
30	Dubuque .....	John H. Emerson.
31	Dubuque and Delaware .....	John H. Peters.
32	Clayton .....	Alpheus Scott.
33	Fayette, Bremer, Butler, Franklin, Grundy, Hardin, Wright, Webster, Boone, Story, Greene, Allamakee, Winneshie and Humboldt.	Sheldon G. Winchester.
34	Howard, Chickasaw, Mitchell, Floyd, Worth, Cerro Gordo, Hancock, Winnebago, Bancroft and Kossuth .....	John T. Clark.

Francis Springer, elected president January 20.

Thomas J. Saunders, elected secretary January 20.

The Constitution adopted by this convention was sanctioned by the people at an election held on the 3d day of August, 1857, there being 40,311 votes cast "For the Constitution," and 38,681 votes cast "Against the Constitution," and took effect by proclamation of the governor September 3, 1857.

## SUMMARY OF AMENDMENTS TO THE CONSTITUTION

By proper legislative action (11 G. A., chap. 98, and 12 G. A., joint res. No. XI), by vote of the people, November 3, 1868, and proclamation of the governor December 8, 1868.

First — Strike the word “white” from Section 1 of Article II thereof.

Second — Strike the word “white” from Section 33 of Article III thereof.

Third — Strike the word “white” from Section 34 of Article III thereof.

Fourth — Strike the word “white” from Section 35 of Article III thereof.

Fifth — Strike the word “white” from Section 1 of Article VI thereof.

By proper legislative action (17 G. A., joint res. No. 5, and 18 G. A., joint res. No. 6), by vote of the people, November 2, 1880, and certificate of the Board of state canvassers, December 3, 1880.

Strike out the words “free white” from the third line of Section 4 of Article III of said Constitution, relating to the legislative department.

By proper legislative action (18 G. A., joint res. No. 8, and 19 G. A., joint res. No. 8), by vote of the people, June 27, 1882, and certificates of the Board of state canvassers, July 23, 1882.

*Section 26.* No person shall manufacture for sale, or sell, or keep for sale, as a beverage, any intoxicating liquors whatever, including ale, wine and beer. The general assembly shall by law prescribe regulations for the enforcement of the prohibition herein contained, and shall thereby provide suitable penalties for the violation of the provisions hereof.

[The supreme court, April 21, 1883, in the case of Koehler & Lange vs. Hill, reported in 60th Iowa, page 543, held that the amendment, Section 26, as submitted to the electors, did not become a part of the Constitution.]

By proper legislative action (19 G. A., joint res. No. 12, and

20 G. A., joint res. No. 13), by vote of the people, November 4, 1884, and certificate of the Board of state canvassers, December 10, 1884.

*Amendment 1.* The general election for state, district, county and township officers shall be held on the Tuesday next after the first Monday in November.

*Amendment 2.* At any regular session of the general assembly, the state may be divided into the necessary judicial districts for district court purposes, or the said districts may be reorganized and the number of the districts and the judges of said courts increased or diminished; but no reorganization of the districts or diminution of the judges shall have the effect of removing a judge from office.

*Amendment 3.* The grand jury may consist of any number of members not less than five, nor more than fifteen, as the general assembly may by law provide, or the general assembly may provide for holding persons to answer for any criminal offense without the intervention of the grand jury.

*Amendment 4.* That Section 13 of Article V of the Constitution be stricken therefrom, and the following adopted as such Section:

*Section 13.* The qualified electors of each county shall, at the general election in the year one thousand eight hundred and eighty-six, and every two years thereafter, elect a county attorney, who shall be a resident of the county for which he is elected, and shall hold his office for two years, and until his successor shall have been elected and qualified.

By proper legislative action (29 G. A. joint res. No. 2, and 30 G. A. joint res. No. 2), by vote of the people November eighth, one thousand nine hundred and four, and certificate of the Board of state canvassers, November twenty-ninth, one thousand nine hundred and four.

That Sections 34, 35, and 36, of Article III of the Constitution of the State of Iowa, be repealed and the following be adopted in lieu thereof:

*Sec. 34.* The senate shall be composed of fifty members to be elected from the several senatorial districts, established by law and at the next session of the general assembly held following the taking of the state and national census, they shall be apportioned among the several counties or districts of the state, according to population as shown by the last preceding census.

*Sec. 35.* The house of representatives shall consist of not

more than one hundred and eight members. The ratio of representation shall be determined by dividing the whole number of the population of the state, as shown by the last preceding state or national census, by the whole number of counties then existing or organized, but each county shall constitute one representative district and be entitled to one representative, but each county having a population in excess of the ratio number, as herein provided of three-fifths or more of such ratio number shall be entitled to one additional representative, but said addition shall extend only to the nine counties having the greatest population.

*Sec. 36.* The general assembly shall, at the first regular session held following the adoption of this amendment, and at each succeeding regular session held next after the taking of such census, fix the ratio of representation, and apportion the additional representatives, as herein before required.

By proper legislative action (29 G. A. joint res. No. 5, and 30 G. A. joint res. No. 1) by vote of the people November eighth, one thousand nine hundred and four, and certificate of the Board of state canvassers, November twenty-ninth, one thousand nine hundred and four.

\* Add as Section 16, to Article XII of the Constitution, the following:

*Sec. 16.* The first general election after the adoption of this Amendment shall be held on the Tuesday next after the first Monday in November in the year one thousand nine hundred and six, and general elections shall be held biennially thereafter. In the year one thousand nine hundred and six there shall be elected a governor, lieutenant-governor, secretary of state, auditor of state, treasurer of state, attorney-general, two judges of the supreme court, the successors of the judges of the district court whose terms of office expire on December 31st, one thousand nine hundred and six, state senators who would otherwise be chosen in the year one thousand nine hundred and five, and members of the house of representatives. The terms of office of the judges of the supreme court which would other-

\* Practically the same amendment was adopted by the people November 6, 1900, but the supreme court, February 1, 1901, in the case of the State of Iowa ex rel Marsh W. Bailey vs. S. W. Brookhart, respondent, appellant, held that the amendment, Section 16, was not proposed and adopted as required by the Constitution, and did not become a part thereof.

wise expire on December 31st, in odd-numbered years, and all other elective state, county and township offices whose terms of office would otherwise expire in January in the year one thousand nine hundred and six, and members of the general assembly whose successors would otherwise be chosen at the general election in the year one thousand nine hundred and five, are hereby extended one year and until their successors are elected and qualified. The terms of office of senators whose successors would otherwise be chosen in the year one thousand nine hundred and seven are hereby extended one year and until their successors are elected and qualified. The general assembly shall make such changes in the law governing the time of election and terms of office of all other elective officers as shall be necessary to make the time of their election and terms of office conform to this Amendment, and shall provide which of the judges of the supreme court shall serve as chief justice. The general assembly shall meet in regular session on the second Monday in January, in the year one thousand nine hundred and six, and also on the second Monday in January in the year one thousand nine hundred and seven, and biennially thereafter.

By proper legislative action (31 G. A. joint res. No. 1 and 32 G. A. joint res. No. 2), by vote of the people November third, one thousand nine hundred and eight, and certificate of the state Board of canvassers, November twenty-third, one thousand nine hundred and eight.

Add to Section 18 of Article I of the Constitution the following:

The general assembly, however, may pass laws permitting the owners of lands to construct drains, ditches, and levees for agricultural, sanitary or mining purposes across the lands of others, and provide for the organization of drainage districts, vest the proper authorities with power to construct and maintain levees, drains and ditches and to keep in repair all drains, ditches and levees heretofore constructed under the laws of the state, by special assessments upon the property benefited thereby. The general assembly may provide by law for the condemnation of such real estate as shall be necessary for the construction and maintenance of such drains, ditches and levees, and prescribe the method of making such condemnation.



## DISTRICT COURTS OF IOWA

The district court holds four terms of court a year in each county in the state.

The judges of the district court are elected by the people for four years. Salary, \$3500 per year.

The counties composing the various districts and the number of judges in each district follows:

DISTRICT	COUNTIES.	NUMBER OF JUDGES
First .....	Lee.....	2
Second ....	Appanoose, Davis, Jefferson, Lucas, Monroe, Van Buren, and Wapello .....	4
Third .....	Adams, Clarke, Decatur, Ringgold, Taylor, Union, and Wayne .....	2
Fourth ....	Cherokee, Lyon, Monona, O'Brien, Osceola, Plymouth, Sioux, and Woodbury .....	4
Fifth .....	Adair, Dallas, Guthrie, Madison, Marion, and Warren .....	3
Sixth .....	Jasper, Keokuk, Mahaska, Poweshiek, and Washington .....	3
Seventh ..	Clinton, Jackson, Muscatine, and Scott .....	5
Eighth ....	Iowa and Johnson .....	1
Ninth .....	Polk .....	5
Tenth ....	Black Hawk, Buchanan, Delaware, and Grundy .....	2
Eleventh ...	Boone, Franklin, Hamilton, Hardin, Story, Webster, and Wright .....	3
Twelfth ...	Bremer, Butler, Cerro Gordo, Floyd, Hancock, Mitchell, Winnebago, and Worth ..	3
Thirteenth	Allamakee, Chickasaw, Clayton, Fayette, Howard, and Winneshiek .....	2
Fourteenth	Buena Vista, Clay, Dickinson, Emmet, Humboldt, Kossuth, Palo Alto, and Pocahontas .....	2
Fifteenth ..	Audubon, Cass, Fremont, Harrison Mills, Montgomery, Page, Pottawattamie, and Shelby .....	4
Sixteenth ..	Calhoun, Carroll, Crawford, Greene, Ida, and Sac .....	2
Seventeenth	Benton, Marshall, and Tama .....	2
Eighteenth	Cedar, Jones, and Linn .....	3
Nineteenth	Dubuque .....	2
Twentieth	Des Moines, Henry, and Louisa .....	2

## PRESIDENTIAL ELECTORS

FROM THE "CODE" OF IOWA OF 1879

*Section 1173. ELECTION OF.* At the general election in the years of the presidential election, or at such times as the Congress of the United States may direct, there shall be elected one person from each congressional district into which the state is divided, as elector of president and vice-president, and two from the state at large, no one of whom shall be a person holding the office of Senator or Representative in Congress, or any office of profit or trust under the United States. Such election shall be conducted, and the canvass of the votes and the returns thereof made, in the same manner as for state officers and representatives in Congress.

*Sec. 1174. MEETING; CERTIFICATE.* The presidential electors shall meet in the capitol, at the seat of government, at noon of the second Monday in January after their election, or so soon thereafter as practicable. If, at the time of such meeting, any elector for any cause is absent, those present shall at once proceed to elect, from the citizens of the state, a substitute elector or electors, and certify the choice so made to the governor, and he shall immediately cause the person or persons so selected to be notified thereof.

*Sec. 1175. CERTIFICATE OF THE GOVERNOR.* When so met the said electors shall proceed, in the manner pointed out by law, with the election, and the governor shall duly certify the result thereof, under the seal of the state, to the United States Secretary of State, and as required by act of Congress relating to such elections.

*Sec. 1176. COMPENSATION.* The electors shall each receive a compensation of five dollars for every day's attendance, and the same mileage as members of the general assembly.

COUNTIES IN IOWA, AREA, DATE OF ESTABLISHMENT  
AND POPULATION

ESTABLISHMENT	NAME	AREA SQ. MILES	POPULATION
			1910
1851, Jan. 15	Adair	576	14,420
1851, Jan. 15	Adams	432	10,998
1847, Feb. 20	Allamakee	615	17,328
1843, Feb. 17	Appanoose	500	28,701
1851, Jan. 15	Audubon	432	12,671
1837, Dec. 21	Benton	720	23,156
1843, Feb. 17	Blackhawk	576	44,865
1846, Jan. 13	Boone	576	27,626
1851, Jan. 15	Bremer	432	15,843
1837, Dec. 21	Buchanan	576	19,748
1851, Jan. 15	Buena Vista	576	15,981
1851, Jan. 15	Butler	576	17,119
1851, Jan. 15	Calhoun	576	17,090
1851, Jan. 15	Carroll	576	20,117
1851, Jan. 15	Cass	576	19,047
1837, Dec. 21	Cedar	576	17,765
1851, Jan. 15	Cerro Gordo	576	25,011
1851, Jan. 15	Cherokee	576	16,741
1851, Jan. 15	Chickasaw	504	15,375
1846, Jan. 13	Clark	432	10,736
1851, Jan. 15	Clay	576	12,766
1837, Dec. 21	Clayton	745	25,576
1837, Dec. 21	Clinton	680	45,394
1851, Jan. 15	Crawford	720	20,041
1846, Jan. 13	Dallas	576	23,628
1843, Feb. 17	Davis	500	13,315
1846, Jan. 13	Decatur	534	16,347
1837, Dec. 21	Delaware	576	17,888
1834, Sept. 6	Des Moines	400	36,145
1857, Jan. 15	Dickinson	408	8,137
1834, Sept. 6	Dubuque	604	57,450
1851, Jan. 15	Emmet	408	9,810
1837, Dec. 21	Fayette	720	27,919
1851, Jan. 15	Floyd	504	17,119
1851, Jan. 15	Franklin	576	14,780
1847, Feb. 24	Fremont	514	15,623
1851, Jan. 15	Greene	570	16,023
1851, Jan. 15	Grundy	504	13,574
1851, Jan. 15	Guthrie	576	17,374
1856, Dec. 22	Hamilton	576	19,242
1851, Jan. 15	Hancock	576	12,731
1851, Jan. 15	Hardin	576	20,921
1851, Jan. 15	Harrison	684	23,164
1836, Dec. 7	Henry	432	18,640
1851, Jan. 15	Howard	460	12,920
1857, Jan. 28	Humboldt	432	12,182
1851, Jan. 15	Ida	432	11,296
1843, Feb. 17	Iowa	576	18,409

1837, Dec. 21	Jackson	619	21,258
1846, Jan. 13	Jasper	720	27,034
1839, Jan. 21	Jefferson	432	15,951
1837, Dec. 21	Johnson	578	25,914
1837, Dec. 21	Jones	576	19,050
1837, Dec. 21	Keokuk	576	21,160
1851, Jan. 15	Kossuth	984	21,971
1836, Dec. 7	Lee	490	36,702
1837, Dec. 21	Linn	720	60,720
1836, Dec. 7	Louisa	396	12,855
1846, Jan. 13	Lucas	432	13,462
1851, Jan. 15	Lyon	600	14,624
1846, Jan. 13	Madison	576	15,621
1843, Feb. 17	Mahaska	576	29,860
1846, Jan. 13	Marion	576	22,995
1846, Jan. 13	Marshall	576	30,279
1851, Jan. 15	Mills	445	15,811
1851, Jan. 15	Mitchell	480	13,435
1851, Jan. 15	Monona	432	16,633
1843, Feb. 17	Monroe	432	25,429
1851, Jan. 15	Montgomery	432	16,604
1836, Dec. 7	Muscatine	435	29,505
1851, Jan. 15	O'Brien	576	17,262
1851, Jan. 15	Osceola	408	8,956
1847, Feb. 24	Page	528	24,002
1851, Jan. 15	Palo Alto	576	13,845
1851, Jan. 15	Plymouth	820	23,129
1851, Jan. 15	Pocahontas	576	14,808
1846, Jan. 13	Polk	576	110,438
1847, Feb. 24	Pottawattamie	876	55,832
1843, Feb. 17	Poweshiek	576	19,589
1847, Feb. 24	Ringgold	545	12,904
1851, Jan. 15	Sac	576	16,555
1837, Dec. 21	Scott	447	60,000
1851, Jan. 15	Shelby	576	16,552
1851, Jan. 15	Sioux	768	25,248
1846, Jan. 13	Story	576	24,083
1843, Feb. 17	Tama	720	22,156
1847, Feb. 24	Taylor	540	16,312
1851, Jan. 15	Union	432	16,616
1836, Dec. 7	Van Buren	502	15,020
1843, Feb. 17	Wapello	432	37,743
1846, Jan. 13	Warren	576	18,194
1838, Jan. 18	Washington	576	19,925
1846, Jan. 13	Wayne	528	16,184
1853, Jan. 22	Webster	720	34,629
1851, Jan. 15	Winnebago	408	11,914
1847, Feb. 20	Winneshiek	696	21,729
1851, Jan. 15	Woodbury	864	67,616
1851, Jan. 15	Worth	408	9,950
1851, Jan. 15	Wright	576	17,951

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*Total*

55,475

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2,224,771

## UNITED STATES SENATORS FROM IOWA

Augustus C. Dodge	Democrat	1848-1855
George W. Jones	Democrat	1848-1859
James Harlan	Republican	1855-1865
James W. Grimes	Republican	1859-1869
Samuel J. Kirkwood	Republican	1865-1867
James B. Howell	Republican	1870-1871
James Harlan	Republican	1867-1873
George G. Wright	Republican	1871-1877
William B. Allison	Republican	1873-1908
Samuel J. Kirkwood	Republican	1877-1881
James W. McDill	Republican	1881-1883
James F. Wilson	Republican	1883-1895
John H. Gear	Republican	1895-1900
Jonathan P. Dolliver	Republican	1900-1910
Albert B. Cummins	Republican	1908-
Lafayette Young	Republican	1910-1911
William S. Kenyon	Republican	1911-

## LEGAL HOLIDAYS IN IOWA

January 1	New Year's Day
February 12	Lincoln's Birthday
February 22	Washington's Birthday
May 30	Memorial Day
July 4	Independence Day
September, First Monday	Labor Day
November, Tuesday	General Election
November	Thanksgiving Day
December 25	Christmas

## CHIEF CITIES OF IOWA.

## POPULATION OF 1910

Des Moines	86,368	Waterloo	26,693
Sioux City	47,828	Clinton	25,575
Davenport	43,028	Burlington	24,324
Dubuque	38,494	Ottumwa	22,012
Cedar Rapids	32,811	Muscatine	16,178
Council Bluffs	29,292	Fort Dodge	15,543



## POPULATION OF IOWA

1847 .....	116,454	1870 .....	1,194,020
1849 .....	154,573	1875 .....	1,350,544
1850 .....	192,214	1880 .....	1,624,615
1852 .....	229,932	1885 .....	1,753,980
1854 .....	326,500	1890 .....	1,911,896
1856 .....	517,875	1895 .....	2,058,069
1860 .....	674,913	1900 .....	2,231,853
1863 .....	701,093	1905 .....	2,210,050
1865 .....	756,209	1910 .....	2,224,771
1867 .....	902,317		

## LEADING CROPS RAISED IN IOWA

	1910	
	BUSHELS	VALUE
Corn .....	341,750,463 .....	\$167,622,834
Oats .....	128,198,055 .....	49,046,888
Wheat .....	8,055,944 .....	7,703,205
Barley .....	10,964,184 .....	5,320,708
Timothy seed .....	1,028,664 .....	1,405,866
Rye .....	570,996 .....	357,220
Buckwheat .....	120,559 .....	86,941
Flax seed .....	140,906 .....	182,569
Emmer and spelt .....	139,839 .....	65,436
Clover seed .....	36,201 .....	275,842
Millet seed .....	47,959 .....	32,728
Kafir corn .....	3,081 .....	2,083
Beans, dry .....	5,699 .....	12,428
Peas, dry .....	9,007 .....	11,669
Potatoes .....	14,710,243 .....	6,629,234
Sweet potatoes .....	232,413 .....	125,763
Hops .....	2,625 lbs. ....	251
Tobacco .....	102,886 lbs. ....	8,751

## VALUE OF FARM PROPERTY

1850-1910

1850 .....	\$ 21,519,711	1890 .....	\$1,100,682,579
1860 .....	147,702,873	1900 .....	1,834,345,546
1870 .....	396,927,325	1910 .....	3,745,860,544
1880 .....	721,517,214		

## TOTAL VALUE DOMESTIC ANIMALS, POULTRY AND BEES

1850-1910

1850 .....	\$ 3,689,275	1890 .....	\$206,436,242
1860 .....	22,476,293	1900 .....	278,830,096
1870 .....	66,389,706	1910 .....	293,003,196
1880 .....	124,715,103		

## DOMESTIC ANIMALS AND POULTRY

	1910	1900
Cattle .....	\$118,864,139	\$142,518,902
Horses .....	177,999,124	77,720,577
Swine .....	69,693,218	43,764,176
Sheep .....	5,748,836	3,156,142
Poultry.....	12,269,881	6,535,464

## MANUFACTURES IN IOWA

	1900	1890	1880
Number of Establishments	14,819	7,440	6,921
Capital Invested .....	\$102,733,103	\$77,513,097	33,987,886
Number wage earners ...	58,553	51,037	28,372
Total wages paid .....	23,931,680	20,429,620	9,725,962
Cost of material used ....	101,170,357	79,292,407	48,704,311
Value of products .....	164,617,877	125,049,183	71,045,926

## COAL MINED

1910.....	7,078,679 long tons
1900.....	4,645,481 long tons
1890.....	3,590,839 long tons
1880.....	1,304,568 long tons

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# GOVERNMENT OF THE UNITED STATES

## CHAPTER I.

### COLONIAL GOVERNMENT IN AMERICA

**Origin.** The first colonial settlements in North America were made by European colonists who brought with them the civilization and the laws and customs of their native lands. The English colonists who settled at Jamestown, and at Plymouth and Salem, brought with them ready made governments, though they were not all of the same type. In some instances the king gave the people a charter of privileges which defined their possessions and stated their rights and privileges. In other instances the king gave a certain tract of land to one man and permitted him to lead out a band of colonists to settle the new region. In still other instances the king would send out a governor to act as his agent and to administer the government over the people in accordance with the king's wishes.

**Kinds of Government.** The earliest form of colonial government in this country was that known as charter government. Charter government was that form in which the king granted a written charter to a band of colonists and under its provisions they governed themselves. Sometimes the king reserved the right to



send a governor and it was then called a modified charter. The charter outlined a form of government for the colony and was in fact a kind of written constitution. Under these charters the governor and his council were not only the executive organ of the government, but they had legislative powers as well. The more important laws had to be referred to the king for his approval. The assembly of the colony provided for courts, and judges were appointed by the governor. In most colonies appeals could go from these courts to the Privy Council of England. Four colonies started out with charter government — Massachusetts, Rhode Island, Connecticut and Virginia. Virginia in 1624 lost its charter, and at times during their colonial period the other three colonies were without charters, but at the time of the Revolution, Massachusetts, Rhode Island and Connecticut were under charter forms of government.

**Proprietary Governments.** This form of government controlled those colonies which were not in the beginning charter in form. A proprietary government was that form in which the colony was controlled by one or more persons, to whom the territory had been sold or granted by the king. The proprietors often established governments very liberal in form and chose good governors and judges to preside over the colonies. In most instances the colonial laws had to be sanctioned by both the proprietor and the king. Eight of the early colonies started out as proprietary and three of them — Delaware, Pennsylvania and Maryland — remained such until the Declaration of Independence made them free.

**Royal or Provincial Colonies.** Some of the colonies lost their early charter or proprietary forms of government and became more directly subject to the control of the mother country — these were called Royal colonies.

In some instances the king allowed the colony to retain a measure of independence. The governor was appointed by the king and was his personal representative in the colony. The king also appointed a governor's council, which acted as an upper house of the colonial legislature as well as an advisory board to the governor. The governor had larger powers in a Royal colony than in either of the other two. He could assemble and dissolve the legislature, veto all laws passed by the colony, and establish courts and raise and control military forces. But even in the provincial colonies the people retained the right to elect representative assemblies and to a certain extent had power to levy taxes.

**Similarities in Government.** Although the thirteen colonies existed under these three forms of government yet their systems were very much alike in their main features. Each colony had a legislative assembly chosen by the people, which raised money and controlled its expenditure, and acted as a lower branch of the legislature. Each colony also had a governor and a council, who, except in Pennsylvania and Delaware, participated in legislation. In all the colonies the lands were held in fee simple. A fundamental difference between the three kinds of colonies, was in the manner of filling the office of governor and in the character of that office. In two colonies the people selected their own governors, while in the others the governor was selected by the king or by the proprietor. All of the colonies in so far as possible reproduced the principal features of the government of England.

**Local Governments.** In many respects the local governments in the colonies were better developed than were the central governments. In the matter of local government the Northern colonies differed to a

considerable extent from those in the South. The early local divisions in England were the town, the hundred and the shire. When the institutions were brought to America they took the name of the town, the township and the county. In the New England colonies the town and the county developed, but the township was not recognized. The tendency was for the bounds of one town to extend as far as the bounds of the next town, and the township as a local unit was not recognized. The town meeting was the source of all governmental activity of a local nature. Here the people met together to discuss matters relating to town affairs, and to take action thereon. The town meeting was democracy in its purest form. The citizens themselves attended rather than send their delegates or representatives. Young and old, rich and poor, took active part in the proceedings, and this town meeting settled all matters relating to the affairs of the town. The New England county confined its business chiefly to the holding of courts of law and the keeping of county records, and the care of prisoners. At first the ordinary county functions of caring for the poor, keeping up highways and carrying out taxation, were in the hands of the town rather than the county.

In New York and other Middle States the county was given more prominence and the township was not so strong as in New England. The early Dutch created manors, villages and chartered towns, but nothing corresponding to the counties. After the English conquest of 1664 the county was established, but the township was earliest and retained the powers not given to the county. In Pennsylvania, William Penn set up a system of county government almost to the exclusion of the town and the township. The township did not appear until the population had greatly increased.

In Virginia and the Southern colonies the local unit corresponding to the modern township was the parish, or in some colonies called the military district. It took the place of the New England town and of the county in the middle colonies. The active authority of the parish was the vestry composed of twelve men, elected by the people at first, and later continued by the filling of vacancies in their own number. The parish collected the taxes, cared for the poor, chose church wardens and decided upon ministers for the parish. The county was the local political unit of the Southern colonies, but as the area of the county was too large to assemble the people in a democratic form of meeting, it became a representative government and the people chose officers to conduct the government for them. In matters of taxation, the vestry made the levy for the parish, the county court made it for the county, and the general assembly made the levy for the colony.

### QUESTIONS

1. Give the names, dates and places of four early settlements made in America.
2. What is meant by a charter of government? What is a corporation charter?
3. Which form of early colonial government gave the greatest liberties to the colonists?
4. Which is the better method of choosing officers — appointment or election?
5. In what respects were all the colonies alike? In what respects different?
6. What units of local government do we find in the states of the Middle West?
7. What was the origin of the term parish?
8. Why did the Southern colonies have so few towns and cities?
9. Name the different units of government from the lowest to the highest.
10. What differences in motive did the early colonists have?

## CHAPTER II.

### ATTEMPTS AT UNION AMONG THE COLONIES

**Influences Favoring Union.** From the earliest founding of the colonies there were certain influences tending to draw them together. The new country was a great wilderness inhabited only by savage tribes of Indians, against whom the colonists had no other protection than their own prowess. More than once the colonists experienced cruel attacks from their red neighbors, and it was not long before the settlements lying within short distances of each other began to take united action against the Indians. The danger of attack by the Indians had not yet passed when a new foe made its appearance—the French from the St. Lawrence Valley and the north. About the same time the Dutch from New Amsterdam, now New York, began to formulate plans to seize some of the English colonies' lands in what is now Massachusetts and Vermont. Finally the colonists found themselves face to face in conflict with the mother country—England. Through these various occasions the colonists soon learned that united action was the only possible means of success. Along with the common enemies which caused the colonies to unite for mutual protection, there were various other influences tending to produce a permanent union. The location of the colonies was such as to form a common geographical union. They stretched in extent from north to south along the Atlantic shore, but at no place was there a break or an absolute separation. They also, in general, had a common race and language. They



all came from the northern countries of Europe. Almost all were of the great Teutonic branch of the Aryan race, and after about 1664, they rapidly took up the English language to the exclusion of the Dutch, Swedish and French. Again — they were all governed by a common form of law — the English unwritten law. They soon came to adopt the English methods and control, and from an early date all received the same kind of political training. Their larger economic interests were the same, and their religious systems were essentially alike. Finally — they all had a common political dependence on England.

**Unfavorable Influences.** In the midst of the struggle for union among the colonies there arose many influences that were unfavorable to their consolidation. First of all, was the fact that although they all lay in a continuous line along the east coast of the continent, there were at least three natural divisions. The New England colonies were practically cut off from the Middle and Southern colonies by the wide and deep Hudson River. With modern inventions and methods of doing business the Hudson has been changed from a natural obstruction into a great and valuable route of commerce, but in the early days, before suspension bridges were known and before steamboats had been invented, such waterway was a great barrier separating two divisions of country. The Potomac River and Chesapeake Bay was another natural dividing line between the Middle and Southern colonies. The Hudson and Potomac Rivers divided the colonies into New England, Middle and Southern colonies — each not only separated from the other by a natural waterway, but each group having quite distinct features and natural resources which in turn produced different activities and occupations.



Another factor entering into the problem of forming a union was the great difference in the size of the colonies. Virginia, together with her extensive western land claims, comprised about one-half of the entire area of the country. Such small states as Rhode Island, Delaware and New Jersey, expressed a fear lest in any kind of union government that might be formed where representation should be a basis of power, such large states as Virginia and Georgia, with their enormous areas settled with millions of people, would control the central organization to the exclusion of the small states. The difference in the forms of government was also important. Those colonies having had Royal governments for many years had become content to remain under that form, while the charter colonies would never consent to give up their liberties and privileges and unite under such form of union. The different purposes in the founding of the colonies also had a marked influence on the people. Massachusetts with her Pilgrim and Puritan home seekers — men and women who left their native lands to find greater freedom and local self-government — was loath to join in any form of centralized control such as the people of Virginia or Maryland might willingly accept. In all the colonies the spirit of local self-government was strong. That was the one great reward for all their hardships in a new and undeveloped land. The commercial interests throughout the colonies were not the same. The New England States were largely manufacturing, while the Southern States were entirely agricultural. Finally, in the later years of colonial dependence on England, the slave question became prominent. The Northern colonies were already strong in their opposition to the entire institution of slavery, while the Southern colonies saw in it a great economic blessing.

**New England Confederation.** The earliest attempt at union among the colonies of any lasting consequence, was the New England Confederation. In 1643, the four colonies of Plymouth, Massachusetts, Connecticut and New Haven sent committees to a meeting in Boston, where the delegates drew up a form of union government. The reasons leading up to this attempted union were four: to protect themselves against the attacks of the Indians; to repel the French invasion from the North; to check the Dutch from New York, who were striving to get New Hampshire; to provide for such general protection which had previously been given by the English troops, who were now withdrawn because of the civil war in England.

The Confederation was a loose kind of union in which the four colonies agreed to form a league of friendship for offense and defense. Each colony agreed to remain sovereign as to its own affairs. They agreed to share the expense of the union government in proportion to the number of male inhabitants in each colony. Two commissioners from each colony were to meet each year to consider affairs common to all. This union lasted about forty years and dissolved because of the old feeling of independence and local self-government; the local jealousy towards Massachusetts; and the restoration in England, which enabled England to again protect the colonies.

After the dissolution of the New England Confederation there were several small attempts to unite the colonies against the aggressions of the Indians and the French. In 1690, occurred the first Colonial Congress at Albany, in which delegates from the New England colonies and from New York were present. It amounted to very little, but was one of the minor events which prepared the way for something more formidable and

significant. In 1696, William Penn submitted a plan of union of the colonies to the British Board of Trade. Its purpose was to make the colonies more effective in their service to England and to one another. The king's commissioner was to be president of the council, which was to consist of two delegates from each of ten colonies. The council had power to hear and determine disputes among the colonies, collect debts against the colonies, punish offenders and improve commercial relations.

**The Albany Congress.** In 1754, when England was about to declare war on France, the Board of Trade encouraged the colonies to hold a Congress and make treaties of friendship with the Indians so as to win over their help against the French. At that meeting the seven colonies assembled recommended to the consideration of the other colonies and of England a plan drawn up by Benjamin Franklin. This plan provided for a common government administered by a "president-general" appointed by the crown, and a "grand council" chosen by the colonial assemblies. It failed both in the colonies and in England. The colonies thought it gave the crown too much power and the crown thought it did not give enough. According to this plan each colony was to be represented according to the amount of money it contributed, but no colony to have less than two representatives or more than seven. The council had power to enact general laws, to appoint civil officers and to provide for the defence of the colonies.

**Stamp Act Congress.** In 1765, the Massachusetts House of Representatives issued an invitation to the different colonies to send delegates to a general Congress. That Congress met at New York on October 7, 1765, and consisted of the representatives of nine colonies. The

immediate cause of the meeting was an act of the British Parliament levying a stamp tax on the colonists, the revenue of which was to be used to maintain a British Army in the colonies. This Congress was different from all the previous attempts at union because it met without the consent of the British Government and for the purpose of resisting the British law. The Congress was in session two weeks and the result of its session was a declaration of rights, a petition to the king, and a memorial to the English Parliament. The resentment against England set forth in these acts was so great as to cause the repeal of the Stamp Act the following year.

**First Continental Congress.** The coercive policy of the English Government, resulting in the tea tax and other oppressive measures, led the colonists into further protest and to the calling of the first Continental Congress on September 5, 1774. Delegates were present from all the colonies except Georgia, and they numbered fifty-five. The delegates drew up a declaration of rights; sent a petition to the king; and submitted an address to the people of Canada. Moreover, they formed an "association" of all those who agreed to accept no article imported from England. Before adjourning the Congress passed a resolution calling a meeting of a new Congress in May of the following year.

**The Second Continental Congress.** On May 10, 1775, the Second Congress assembled at Philadelphia, and with adjournments from time to time, continued in session until March 1, 1781. The delegates addressed another petition to the king, which because of its milder tone was known as the "olive branch" petition. The king did not reply to it, but issued a proclamation in which

he declared the colonists to be rebels. Previous to the meeting of Congress in May, the battles of Lexington and Concord had occurred, and the delegates now began active preparations for war. Washington was chosen commander-in-chief and twenty thousand soldiers were raised.

**Declaration of Independence.** The meetings of the first and second Continental Congresses were in direct opposition to the English authority and were purely revolutionary bodies. Actual fighting had begun between Great Britain and the colonies. On April 22, 1776, the North Carolina legislature advised their delegates at Philadelphia to declare for independence. On May 17, the Virginia legislature did the same. On June 7, 1776, Richard Henry Lee offered a resolution to the Congress "That these colonies are, and of a right ought to be, free and independent states." On June 11, two committees were appointed by Congress, one to draw up a declaration of independence and the other to formulate articles of union government. The first of these committees consisted of Thomas Jefferson, John Adams, Benjamin Franklin, Roger Sherman and Robert R. Livingston, and they reported the Declaration of Independence to Congress on June 28, 1776. The report was debated and adopted on July 4, 1776, and was signed by the members of the Congress on August 2. This declaration changed the British colonies of America into the United States of America.

**Articles of Confederation.** The committee appointed on June 11, 1776, to draw up the Articles of Confederation consisted of one delegate from each of the colonies. John Dickinson of Delaware was chairman. The committee reported the Articles to Congress on July 12, 1776,



and they were debated and altered and finally adopted on November 15, 1777. Their provisions required that they be ratified by all the states before being binding on any. The last state to ratify them was Maryland, on March 1, 1781. These Articles of Confederation were the first real union government under which we existed as the United States. During the Revolutionary War the colonies were held together by the exigencies of the times. From 1781 to 1789 the United States had as its fundamental document of government these Articles of Confederation.

**The Constitution of the United States.** The Articles of Confederation were found weak and unworthy as a fundamental plan of government. They made no provision for a central executive or for a central judiciary. There was no coercive power in the Federal Government and no way of compelling the states to obey the laws enacted by Congress. There was no federal regulation of commerce and there was no national currency provided for. In these particulars the states and the people did about as they pleased, and they could not be punished, for there was no means provided for enforcing the laws. Because of the failure of the Articles of Confederation to provide a suitable Federal Government, the states passed resolutions in their state legislatures asking for a federal convention for the purpose of revising the Articles of Confederation. Congress passed a resolution on the 21st of February, 1787, calling a national convention to meet at Philadelphia in May of that year, for the purpose of revising the Articles of Confederation.



## QUESTIONS

1. What were the chief influences causing the colonies to unite?
2. What were the chief influences causing the colonies to delay union as long as they did?
3. Of what benefit to a country are deep, broad rivers? What of small, swift running rivers?
4. How did some of the colonies come to have western land claims?
5. Describe the New England Confederation.
6. Why were all the early attempts at union failures?
7. What was the real beginning of the United States?
8. How long was the United States governed by the Articles of Confederation?
9. How many articles and how many amendments in the Constitution of the United States?

## CHAPTER III.

### THE MAKING OF THE CONSTITUTION

**Weaknesses of the Confederation.** The defects in the Articles of Confederation were such as to deprive the Federal Government of real and effective power in the enactment and enforcement of its legislation. The Federal Government had abundant power in law-making, but practically no power in law enforcing. No provision was made in the Articles for a central executive official; no central judiciary was provided for; there were no federal courts to interpret the law; Congress had no power to enforce the observance of treaties; Congress had no power to coerce a state, it could only recommend; Congress could not bring an offending individual to justice, except through the willingness of the state to punish; there were no uniform currency laws; each state had its own kind and variety of money; there was no uniform legislation on the subject of commerce — each state could levy tariffs as it chose; the Articles required a two-thirds vote on all important questions and the vote was by states — it was very difficult to obtain such vote on partisan questions; and lastly, the Articles themselves could not be changed or amended except with the consent of all the states, and to secure such vote was almost impossible.

**Steps towards the Federal Convention.** The immediate reason for calling a convention was to reach some agreement concerning the regulation of interstate and

foreign commerce. Other weaknesses of the Confederation were as ruinous in their effects as the failure to regulate commerce, but none of them were of such immediate consequence. In March, 1785, a conference of delegates from Maryland and Virginia was called at Alexandria for the purpose of adjusting, if possible, the differences between those states concerning the navigation of the Potomac River and the Chesapeake Bay. The discussion soon showed that no adequate regulation of interstate commerce could be entered into without the co-operation of all the states. After consulting with George Washington, at Mt. Vernon, the few delegates assembled decided to call a convention of all the states to meet at Annapolis the following year.

The Trade Convention at Annapolis in September, 1786, was attended by delegates from five states. Other states chose delegates and some of them actually started for Annapolis, but were too late, and were met on the way by the convention delegates returning to their homes. The discussion at Annapolis again brought out the fact that no real effective action towards strengthening the central government could be taken without the co-operation of all the states. Under the leadership of Hamilton the convention passed a resolution recommending to all the states to send delegates to a national convention to meet the following year and copies of the resolution were sent to Congress and to the state legislatures. This action aroused a response from Congress and on February 21, 1787, that body passed a resolution calling a federal convention to meet at Philadelphia, on May 14, of that year.

**Personnel of the Convention.** There were sixty-five delegates chosen, representing all the states except Rhode Island. Fifty-five delegates actually sat in the

convention. Thirty-nine of these delegates were present on the last day of the meeting and signed the constitution. Three members, Elbridge Gerry of Massachusetts, and Edmund Randolph and George Mason of Virginia, were present on the last day, but refused to sign because the constitution did not meet their approval. The delegates to the convention represented the best statesmanship and ability in America. George Washington was president of the convention. Benjamin Franklin, James Madison, Alexander Hamilton, James Wilson, Charles Pinckney and Roger Sherman were among the most prominent members. The oldest man in the convention was Benjamin Franklin, who was eighty-one years of age. The youngest man was Jonathan Dayton of New Jersey, who was twenty-seven years of age. The average age of all the members in attendance was forty-three years. Twenty-five of the delegates present came from north of the Mason and Dixon line, and thirty came from south of it. They were, without scarcely an exception, men of liberal educational qualifications and of large practical experience in constitution making in the states. They were well equipped for a great work and the Constitution of the United States is a monument to their genius and ability.

**Plans Submitted to the Convention.** There were in all four plans submitted to the constitution makers as suggestions according to which they might frame a constitution. The Virginia and Pinckney plans were submitted on May 29, the New Jersey plan on June 15, and the Hamilton plan on June 18. The Pinckney plan was very little discussed in the convention and had little influence on the making of the constitution. Of all the plans submitted, the Virginia plan was the most influen-

tial and was most nearly followed by the convention. This plan was written by Madison and was presented to the convention by Edmund Randolph. It provided for a central executive, to consist of one person, chosen by the national legislature, and not subject to re-election. The legislature was to consist of two branches, an upper house and a lower house. The members of the upper house were to be chosen by the lower house from among persons nominated by the state legislatures. They were to hold office for a longer term than were the members of the lower house, and were not subject to immediate re-election. The members of the lower house were chosen by popular election, and were apportioned according to the population in each state. They were to receive a fixed salary, were not subject to immediate re-election and could be recalled by the states. The judiciary was to consist of a superior court and such inferior courts as the national legislature would provide. The judges were to hold office during good behavior and were to be chosen by the national legislature. This plan also provided for a council of revision consisting of the chief executive and a part of the judiciary. It was to have the power to review national legislation. The plan further provided for the admission of new states, the manner of amending the Constitution, and the method of establishing the new government.

The New Jersey plan was drawn up and presented to the convention by William Patterson. It was not so well worked out as was the Virginia plan. It provided for a multiple executive, that is, more than one person at a time, for executive; for a unicameral or one-branch legislature; for a judiciary of both superior and inferior courts, and for the admission of new states, and for a uniform rule of naturalization.

The Hamilton plan was the suggestion of Alexander



Hamilton of New York and was not intended to present a complete plan of Federal Government. Hamilton had listened attentively to the discussions from the beginning of the convention and believed the members were tending to the adoption of a government giving too much power into the hands of the states and too little to the Federal Government. He presented his plan for the purpose of encouraging the establishment of a strong central government. He advocated a life term of office for the chief executive, and life tenure for the members of the upper branch of the national legislature and for the judges of the superior courts. He also advocated such powers for the superior courts and for the national legislature as would subordinate the state to the central authority.

**Compromises in the Convention.** Any large assembly having so grave a task before it as making a national constitution may well expect differences of opinion concerning fundamental propositions. Such was true of the Constitutional Convention of 1787. From the very first the small states were determined they should be equally powerful with the large states in the national legislature. The large states were equally determined their larger population should receive representation in proportion to their numbers. The discussion waxed warm concerning the number of representatives each state should have in Congress. Under the old unicameral legislature of the Confederation the question was impossible of solution. The large states would not accept equal representation and the small states would not agree to proportional representation. The entire proposition was solved and satisfactorily adjusted by the Connecticut Compromise, which provided for a bicameral legislature with equal representation of the

states in the upper house and with proportional representation in the lower house.

The question of counting slaves in computing the population of the Southern States was another grave matter. The Southern States contended the negroes were property and as such were under the control of the states and not under the control of the central government, but when estimating their population they contended the negroes ought to be counted. The Northern States contended the negroes ought to be freed and given political rights or not be counted in the apportionment of representation. The matter was finally compromised by an agreement to count five slaves equal to three white men when determining representation, and direct taxes were to be apportioned in the same manner.

The third great compromise also originated out of the presence of slaves and of the slave trade. The most urgent matter leading up to the calling of the convention was the regulation of commerce between the states and with foreign nations. Some states, especially those of the South, wanted the control of commerce left largely with the states. The Northern and manufacturing states wanted the control of commerce in the hands of the Federal Government because it would insure greater stability of trade regulations and it would avoid the weaknesses of the Articles of Confederation. The two factions finally agreed to give Congress control over commerce. This was a concession to the northern states and was only acquired after making an equal concession to the South—that Congress should not legislate prohibiting the importation of slaves until after 1808, although Congress could, if it chose, levy a tax of ten dollars on each slave imported.

One of the elements of strength in the Constitution is the series of compromises. They reconciled conflicting

opinions, and modified radical propositions. The Constitution is stronger because it presents compromises rather than extreme opinions. Such compromises drew support from both factions when the Constitution was placed before the states for ratification, while an extreme contention would have aroused opposition.

**Ratification.** The manner in which the states were to accept the Constitution was set forth in the seventh article. It provided that ratification was to be done by the states through conventions called for that purpose. The Constitution was to go into effect when nine states had so ratified. The ninth state to so accept the Constitution was New Hampshire on June 21, 1788. The Congress of the Confederation then took steps towards putting the new government into operation. The date agreed upon was the first Wednesday in March, which chanced to be March fourth, the day since followed as "Inauguration Day."

The work of ratification was not easy in some of the states. Delaware was the first state to ratify and the new Constitution was adopted by a unanimous vote and without offering amendments. In Massachusetts the debate was long and bitter and the final vote stood 187 to 178. In Virginia and in New York the sessions were long and the final vote gave a narrow margin for ratification. North Carolina and Rhode Island remained out of the union until Congress threatened to enact tariff laws against their articles of trade. North Carolina then ratified the Constitution on November 21, 1789, and Rhode Island followed as the last state on May 29, 1790.

The chief objections found to the Constitution by the states when it was before them for ratification were: the military power vested in the President; the right

of the Federal Government to control commerce; federal power to lay and collect taxes; the absence of a bill of rights; the re-eligibility of the executive; the absence of a provision for locating the capital; the absence of an executive council, and the large powers given to the courts over federal legislation and that of the states.

### QUESTIONS

1. Enumerate the weaknesses of the Articles of Confederation?
2. For what purpose was the Federal Convention of 1787 called?
3. Why was the trade convention at Annapolis?
4. How many signers has the Constitution of the United States?
5. Tell something about Washington, Hamilton, Franklin, Madison.
6. In what ways were the plans submitted to the convention alike? In what ways were they different?
7. Explain the compromises in the convention.
8. How did the states ratify the Constitution?
9. What was the effect of ratification?
10. What were the chief objections made by the states to the Constitution?

## CHAPTER IV.

### ORIGIN AND NATURE OF THE CONSTITUTION

**Theories Concerning the Origin.** There are four general theories concerning the origin of the Constitution of the United States. The first is, that the Constitution is an entirely new and original outline of government. This theory holds that the delegates in the Federal Convention of 1787 came together and formulated a new plan of national government which in the main was unlike any other government in existence. This theory is not a good one. There is much in the Constitution of the United States that was copied from governments already in existence.

The second theory held the opposite extreme from that of the first. It holds that the Constitution of the United States is but a written copy of the English Constitution then in existence. Sir Henry Maine set forth this theory, which like the first one, is far from being correct. There is much in our Constitution that was never found in the Constitution of England. The electoral college for choosing the executive is one example.

The third theory holds that the Constitution was made up entirely out of the experiences of the colonists and those living under the state governments in the Confederation and that none of it was copied from other governments, but that all came from the American people previous to 1787. If we read the debates and discussions of the members in the convention we readily



see that they often referred to the governments of other nations and that much of our Constitution is like that of other countries.

The fourth theory holds that the Constitution of the United States was made up from parts of all the above theories. It was copied in part from other countries — especially from the government of England. It also did contain much of the actual experience of the colonists as worked out in the colonies and in the states under the Confederation. It also contained some new features that were not found in the governments of other nations. This last theory is considered the correct one.

**Different from Articles of Confederation.** The Articles of Confederation were drawn up by a committee consisting of one delegate from each state and were discussed and adopted by the Second Continental Congress. They did not become effective until ratified by all of the states. They formed the states into a confederation or league of friendship. The Constitution was drawn up by a convention of fifty-five delegates chosen by the states. It went into operation when ratified by nine states. It was made by the people's delegates and was ratified by the people's representatives. It formed the states into a union from which none could withdraw.

The Confederation was a union of states. The government under the Constitution was a union of people. The Articles of Confederation were made and ratified in the name of the states. The union under the Constitution was made and ratified in the name of the people. The Articles of Confederation say, "We the thirteen states of the United States." The Constitution says: "We the people of the United States." Under the Confederation the states were stronger than the Federal Government. Under the Constitution the Federal



Government is stronger than the states. The Articles of Confederation made a compact between the states from which any state could withdraw. The Constitution formed a union government from which no state can ever withdraw. Our Constitution is the people's Constitution — and the people's government — made by the people—made for the people—and answerable to the people.

**Relation of the States to the Union.** Under the Constitution we have a dual form of government. The Federal Government is sovereign and is supreme within its sphere, and the state governments are supreme within their spheres. A peculiar relation exists between the states and the National Government. Under the Confederation the Federal Government was a government of delegated powers — these powers having been delegated by the states. Under the Constitution the powers of the states are delegated rather than those of the Federal Government. Article X of the Amendments to the Constitution says, "The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people." Under the Constitution all powers are inherent in the people. The people have, however, drawn up a Constitution which definitely gives the Federal Government the sovereign power of control. This Constitution gives the Federal Government supremacy in certain matters relating to the country as a whole, and it gives supremacy, in certain other matters, to the states, because they relate only to the states. The Constitution places certain restrictions upon the powers of the states and specifically forbids them to exercise certain powers. No state can enter into any treaty, **alliance**, or confederation, or grant letters of

marque and reprisal, or coin money, or emit bills of credit. No state can pass any bill of attainder, *ex post facto* law or laws impairing the obligation of contract. Still other specific powers similar to these are forbidden to the states.

The Constitution also requires of the Federal Government certain duties towards the states. The Federal Government guarantees to every state a republican form of government and protection against invasion, and, when the states request the Federal Government to do so, to aid the state in suppressing domestic violence. Within their own spheres of activity the states are self-governing bodies and may enact such legislation and carry on such government as is for the general welfare of their own people so long as it does not conflict with the Constitution of the United States or with the laws of Congress passed in accordance with the Constitution.

**Classification of Powers.** If we attempt a detailed study and classification of the powers of government as they appear in the Constitution of the United States we will find they may all be listed under nine possible classes: First, we have federal powers which are forbidden to the states. Under this class of powers are found most of the ordinary powers belonging to Congress, such as the power to borrow money on the credit of the United States; power to establish post-offices and post-roads; power to call forth the militia to execute the laws of the Union, etc. Second, we have powers granted to the United States simply, such as to provide for the punishment of counterfeiting; to apportion direct taxes among the several states; to lay and collect taxes and excises, etc. Third, we have powers common to the nation and the state, such as protection against invasion; the division of a state into two states; the proposing

of amendments, etc. Fourth, we have powers reserved in the states simply, such as the right to choose at least one representative to Congress; the return of fugitives from justice fleeing from one state to another, etc. Fifth, we have state powers forbidden to the United States, such as the power of the state executive to issue writs to fill vacancies in the state's representatives in Congress; to determine the place of choosing United States senators; to determine the manner of choosing presidential electors, etc. Sixth, powers forbidden to the United States simply, such as to change the classification of United States senators into other than three classes; to allow the President of the Senate a vote in cases other than a tie; to pass an appropriation for the army or navy for a longer period than two years, etc. Seventh, powers forbidden to the states simply, such as no state shall enter into a treaty, alliance, or confederation; no state shall coin money or emit bills of credit; no state can pass a bill of attainder or an *ex post facto* law; no state can deny full faith and credit to the public acts of another state, etc. Eighth, powers expressly forbidden to both the nation and the states, such as to change the number of United States senators from each state; to change the qualifications of senators or of representatives in Congress; to deny a state the right of a republican form of government, etc. Ninth, rights reserved or expressly retained in the people, such as the right of the people of the several states to choose representatives to either house of Congress; the trial of all crimes except impeachments, in federal courts, shall be by jury; the citizens of each state shall have all the privileges and immunities of citizens in the several states, etc.

## QUESTIONS

1. Explain the four different theories as to the origin of the Constitution.
2. What is the difference between a Confederation and a Federal Union?
3. Memorize the Preamble to the Constitution of the United States.
4. What is a bill of rights? Does the Constitution have a bill of rights?
5. Name the different classes of powers as they are found in the Constitution of the United States.

## CHAPTER V.

### LEGISLATIVE DEPARTMENT

**The Two Houses.** The old Congress of the Confederation consisted of but a single house, or in other words, it was unicameral in form. The two-branch, or the bicameral, system of the new government was the result of the Connecticut compromise, which provided for equal representation of the states in the upper house and for proportional representation in the lower house. The bicameral system of legislature was in use in the states previous to the time of the Constitutional Convention. There were several practical reasons for a two-branch legislature. The old Congress of the Confederation with one branch was a failure, while the two branches in the states were successful. The two houses were a compromise between the federal and the state idea, each of which was contended for in the Federal Convention. Each branch would also act as a check upon any hasty action by the other. The two branches interpose a delay between the introduction and the adoption of a measure which results in a better quality of legislation.

**Composition of the Two Houses.** The membership of the Senate of the United States consists of two senators from each state. Formerly they were elected by the state legislatures, but the seventeenth amendment, adopted in 1913, provides that senators shall be chosen by a direct vote of the people. The Senate now has



ninety-six members. The membership of the House of Representatives is determined according to population. At the beginning of the government the ratio was fixed at one representative for every thirty thousand people, but it was changed in 1790 to thirty-three thousand and has been steadily increased, until in 1910, Congress declared the ratio to be one representative for every 212,407 people and the House now has 435 members. The most populous states naturally have the most representatives. New York has forty-three representatives, and Pennsylvania has thirty-six.

**Qualifications of Members.** The Constitution carefully determines the qualifications of members of each branch of Congress. To be eligible to the lower house a person must be at least twenty-five years of age; he must have been seven years a citizen of the United States; and he must when elected be an inhabitant of the state from which he is chosen. It is not required that he live in the district in the state from which he is chosen, but the practice of electing one who lives in the district has become so strong that at present there are almost no exceptions to the rule.

To be eligible to the upper house a person must have attained the age of thirty years; he must have been a citizen of the United States for nine years previous to the election, and must, when elected, be an inhabitant of the state from which he is chosen. It was provided that after the first election the senators were to be divided as equally as possible into three classes, the first to retain their seats for two years, the second for four years, and the third for six years, so that one-third of the Senate might be chosen every second year.

Vacancies occurring in the House may be filled by the governor of the state issuing writs calling an election

for the choosing of a member in that district to fill out the unexpired term. A vacancy in the Senate may be filled by the governor appointing a member to serve out the unexpired term, or he may call an election for the choice of a member to fill the unexpired term.

**Term of Service.** The term of service fixed by the Constitution is two years for representatives and six years for senators. The framers of the Constitution wished to provide for a frequent return of their officers at the will of the people so as to insure democratic government, yet they wished to avoid the instability caused by too frequent changing, so they provided for a short term of two years for members of the lower house and a long term of six years for members of the upper house. This happy arrangement gives the people opportunity to assert their power in the lower house by calling their representatives to account every two years, while it avoids the radical shifting about by changing the entire national legislature at any one time.

**Officers of the Houses.** The officers of the House of Representatives consist of a speaker, clerk, sergeant-at-arms, door-keeper, postmaster, and chaplain. The speaker is elected by the members of the House from their own number and is the recognized leader of the majority party at the time of being chosen. Until a speaker is elected the clerk of the old House acts as presiding officer. The officers serve for the entire Congress, that is, for two sessions, which is two years. The officers of the Senate consist of the Vice-President of the United States who is the presiding officer; a president *pro tem*, to preside in the absence of the Vice-President; a secretary, a sergeant-at-arms, a chaplain, and two doorkeepers.

**Compensation of Members.** The Constitution declares the senators and representatives shall receive a compensation for their services to be paid out of the treasury of the United States. At the beginning of the government they received six dollars per day and mileage. From 1815 to 1817, each member received \$1500 per year and mileage. From 1817 to 1855, the salary was eight dollars per day and mileage. From 1855 to 1865 it was \$3000 per year and mileage. From 1865 to 1871 it was \$5000 per year and mileage. From 1871 to 1873 it was \$7500 per year and mileage. From 1873 to 1896 it was reduced again to \$5000 per year and mileage. At present the yearly salary is \$7500 per year and twenty cents per mile going and coming by the nearest route between their homes and the capital, and \$1200 per year for a secretary and \$125 for stationery, together with the free use of the mails for business purposes, and the use of a suite of rooms in the office buildings specially provided for that purpose.

**Sessions of Congress.** The Constitution in Article I, Section 4, fixes the time of the yearly meeting of Congress as the first Monday in December. There are therefore annual meetings of Congress and each meeting constitutes a regular session. If the President thinks necessary he may call an extra session, which is then known as an extra session of a regular Congress. As Congress consists of two regular sessions and extends over a period of two years, one may always determine the number of the present Congress, by dividing the number of years since 1789 by two, for each Congress covers a period of two years. The first session is the long session and begins the first Monday in December and lasts until the middle of the following summer. The second session is the short session, beginning the

same time in December and ending at noon on the fourth day of March following. The election of members of both houses of Congress takes place on the first Tuesday after the first Monday in November in even numbered years, but the members elected at that time do not take their offices until the December of the following year. Bills introduced in the House may carry over from the long to the short session, but they perish at the close of the short session. Bills introduced in the Senate may not only carry over from a long to a short session, but may carry over from one Congress to another. The daily sessions begin at twelve o'clock noon, and usually last until four or six o'clock in the evening. Either house may, however, prolong its session far into the night, or as is the case in time of war, may hold all night sessions. The houses seldom meet on Saturday and never on Sunday unless in extreme emergency, such as war.

**Quorum.** The Constitution in Article I, Section 5, declares a majority of either house shall constitute a quorum to do business. By a quorum is meant the number necessary to make transactions legal. If when either house is called together a smaller number than a quorum is present, but as many as fifteen besides the speaker, they may issue orders to the sergeant-at-arms to go out and compel the other members to attend. The term majority is now generally understood to mean a majority of all members having been duly elected, or in other words, vacancies are not counted.

**Procedure in Congress.** Each house of Congress is given power to determine its own rules of procedure and may pass appropriate legislation for the enforcement of its rules and regulations. Either house may punish its members for disorderly conduct, may suspend any member, or upon a two-thirds vote of

these present may expel a member. Generally speaking, all meetings of both houses are open to the public, and galleries are provided for the seating of visitors. Either house may, however, exclude all but its own members any time it chooses. Such act is called going into executive session. Each house is required to keep a journal of its proceedings and to publish it from time to time. It may, however, exclude such parts of the proceedings as may in its judgment require secrecy. The ordinary debates are published daily in the Congressional Record. The Constitution determines the matter of adjournment in the following words, "Neither house, during the session of Congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses may be sitting."

**The Legislative Process.** All legislation enacted by Congress is at first presented in one house or the other in the form of bills. A bill is a printed form or statement of a proposed law. The bill when passed by either house may have undergone radical changes in the debates either in committee or on the floor of the house. The Constitution in Article I, Section 7, mentions three ways in which a bill may become a law. First, it may be introduced by a member and passed by both houses and signed by the President. It is then a law of the United States. Second, if after passing both houses it is disapproved of by the President it is returned to the house in which it originated and if that house sees fit to again pass the bill, this time by a two-thirds vote, and after so passing it the other house also passes the bill by the same vote, then the bill has become a law despite the President's veto. Third, if the bill passes both houses by a majority vote and the President neglects to return it within ten days, Sundays excepted, then it becomes



a law regardless of the President's signature, unless Congress adjourns in the meantime.

**Steps in the Passage of a Bill.** To illustrate the enactment of a bill into law we will follow a bill through the various stages in the lower house. The passage through the upper house is similar to that in the lower house. First, the bill is introduced. This is done by handing it to the speaker or laying it on his desk, if it is a public bill; if it is a private bill it is handed to the clerk of the House. It is then referred to the order of business to which the bill belongs. Second, when that order of business is reached the bill is read by its title only and is then referred by the speaker to the proper committee. Third, in the committee the bill may be discussed and disposed of in either of four ways: they may decide not to report it at all, which is called killing the bill in committee ; they may decide to report it so late in the session that no action can be taken upon it; they may decide to report it adversely, which generally causes its defeat; they may decide to report it favorably, which is a good recommendation for its passage. Fourth, it is reported by the committee to the House and is read a second time, this time in full, and is then placed on the calendar to await its turn. This means it may be brought up at its regular time on the calendar, but may also be passed over and other bills given precedence by a vote of the house, and thus this bill is delayed. Fifth, the bill when reached in its place on the calendar is read a third time by title only, unless a full reading is demanded. The question is then put, "Shall the bill pass?" which is a formal way of submitting the bill to open discussion. The debate may now be short and the bill uncontested, or it may be long and bitterly contested, as are some of the purely partisan measures. Sixth, the "previous question" is called for, which means a



vote is to be taken. The debate is now closed by the member reporting the bill and the vote is taken. The ordinary manner of voting is by acclamation, but if one-fifth of those present request it a journal vote is taken and the roll called and the ayes and noes are recorded. If a further vote is requested a division of the House is made in which all those favoring the bill pass to one side of the center aisle while those opposed pass to the other. Seventh, if the bill passes the House it is then signed by the speaker and by the clerk and is taken to the Senate. In the Senate, it is at once referred by the presiding officer to the proper committee, after which it goes through about the same routine as it did in the House. If it passes the Senate without amendment it goes at once to the President for his signature. If the Senate changes the bill in any way from what the House left it, then it must again pass the House before being carried to the President.

### QUESTIONS

1. In what ways did the Congress of the Confederation differ from the Congress of the United States?
2. How may senators and representatives be removed from office?
3. Must a representative live in the district in the state from which he is chosen?
4. When were United States senators first chosen by popular vote?
5. How may a vacancy in the office of United States senator be filled?
6. What is the number of the present Congress?
7. Trace a measure from the time it is introduced into the lower house until it becomes a law.
8. What is meant by a division of the House?
9. How may the President influence legislation in Congress?
10. Who is the present Speaker of the House of Representatives? Who is now the President of the Senate?

## CHAPTER VI.

### LEGISLATIVE DEPARTMENT

*(Continued)*

**General Powers of Legislation.** The regulation of commerce was one of the difficulties that led up to the Federal Convention in 1787. Under the Confederation the power to regulate commerce was left largely in the hands of the states. This resulted in a variety of legislation which in turn greatly hampered the control of both domestic and foreign commerce. Under the Constitution the control over commerce, both domestic and foreign, was given to Congress. This power necessitates the enactment of many laws for the protection and facilitation of our commerce. The government has designated certain seacoast cities as ports of entry, and through these ports all goods brought in from foreign countries must enter. Ships entering our harbors must do so under the rules and regulations laid down by Congress, and every vessel must "clear" and "enter" and the master must show evidence that all harbor duties have been paid and all regulations have been observed. This country has since the beginning levied duties upon certain articles imported from foreign countries. The purpose has been two-fold, to raise money to pay the running expenses of the government, and to give protection to new industries so as to encourage their growth and aid in the country's development. To collect these import duties requires a great

army of officers and clerks at every port where ships enter. Passenger ships carrying persons to and from this country also come under the commerce powers of Congress. Congress has enacted immigration laws governing the manner by which foreign people may enter the United States and become citizens. For the protection of ships, Congress has passed laws for the erection of lighthouses, the building of life-saving stations, the improvement of harbors, licensing of pilots, making coast surveys, etc. Congress also has charge of interstate commerce and has created an interstate commerce commission to exercise such detailed power as seems necessary to the proper regulation of interstate traffic. The commission consists of five persons appointed by the President with the consent of the Senate and has power to determine when rates are reasonable; to prevent unfair discrimination between persons or corporations; to require that short hauls are made at the same proportionate cost as long hauls; and that there should be no "pooling" agreements between railroads whereby they agree to divide a common fund of earnings in proportion to their size and thus do away with reducing of rates.

Congress has power to establish uniform rules of naturalization and to declare who shall become citizens of the United States. The law requires that every foreigner wishing to become a citizen of the United States shall become naturalized. This process requires that the person appear before a court of record and declare his intention of becoming a citizen and at the same time renounce his allegiance to his former government. After having had a continuous residence in this country of five years and at least two years having passed since his first declaration, he must again appear before a similar court and renew his declaration and again re-

nounce his allegiance to his former government, and present two witnesses that he has during this time lived in faith and obedience to the Constitution of the United States. The wife and minor children receive naturalization through the naturalization of the husband and father. Children born to American citizens traveling abroad are considered as native born. Naturalization is denied to Chinese and Japanese.

Congress has power to establish post-offices and post roads. The carrying of the mails is a work of such magnitude and complexity that no other authority than the Federal Government could ever undertake it. There is no city, town, or village hamlet anywhere throughout the civilized world but what a letter properly addressed and stamped will be carefully delivered to it. This is possible through the United States mail service, which extends through all the states and to foreign countries. Congress through laws enacted has made agreements with all civilized nations for the exchange of postal service.

Congress also has power to punish counterfeiting. By counterfeiting we mean "to make a copy of anything without authority or right, and with a view to deceive or to defraud by passing the copy as original or genuine." The Constitution provides that Congress shall have power to provide for the punishment of counterfeiting the securities and current coin of the United States. One may counterfeit the money of the United States by manufacturing, putting into circulation, or having in possession with intent to put into circulation forged coins or securities of the United States. Securities of the United States include bonds, paper money, postage stamps and revenue stamps, etc. Some of the states as well as the Federal Government have enacted laws punishing counterfeiting. It is as much subject to

punishment to counterfeit the coins, bonds and securities of other countries as to counterfeit those of the United States.

The Constitution, in Article I, Section 8, gives to Congress the power to establish uniform laws on the subject of bankruptcy throughout the United States. To become a bankrupt is for a person to acknowledge both his assets and his liabilities and turn over the whole of his property to the proper officials appointed by the courts to settle the debts of such person. To take advantage of the bankrupt laws is generally considered an evil act, but there may be instances in which an individual is justified. States are allowed to pass such laws concerning bankruptcy as do not conflict with the laws of the United States on the same subject.

Congress also has power to define and punish piracies and felonies committed on the high seas and offenses against the law of nations. Piracy is the committing of robbery on the high seas. Felony is the name given to any serious crime and if committed on the high seas it is evident that no state would have jurisdiction over it; therefore such acts are punished under federal law. Both of these powers are exercised in the general protection over commerce.

The power to regulate the standards of weights and measures also rests with Congress. This again is chiefly for the aid of commerce between the states and with foreign nations. Great confusion would exist if the various states had different systems of weights and measures. In 1875, a bureau of weights and measures was established and in 1901 a national standardizing bureau was established in the treasury department.

A copyright is a printed statement of the security given to authors or artists to the exclusive right of their writings or art productions for a limited time. The



object of the copyright law is to protect authors from having their books published without their permission. The granting of such rights encourages the progress of science and useful arts. To secure a copyright one must send to the librarian of Congress a printed copy of the title, if it is a book or drawing, etc., and immediately upon publication, two copies of the same book, drawing, etc. A fee of one dollar must accompany the application, and the copyright when granted is good for twenty-eight years and may be renewed for fourteen more.

A patent right is the permission to the exclusive use for a limited time, of a new and useful invention. The patent gives the inventor the sole right to make and sell the article for the term of seventeen years and if renewed to extend the time for seven years longer. A patent is obtained by making application to the commissioner of patents and including with the application a full description of the article and drawings, and if possible, a model. The cost of a patent is the sum of fifteen dollars paid when the application is first made and an additional twenty dollars if the patent is allowed.

The war powers of Congress as given by the Constitution may be stated in the terms of the first article as follows: Congress has power to declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water; to raise and support armies, but no appropriation of money to that use shall be for a longer term than two years; to provide and maintain a navy; to make rules for the government and the regulation of the land and naval forces; to provide for the calling forth of the militia to execute the laws of the United States, suppress insurrections, and repel invasions; to provide for organizing the army and for disciplining the militia; Congress also has right to control all places

in the states in which forts, magazines, arsenals and docks are maintained for the use of the federal troops or for the army.

**Elastic and General Welfare Clauses.** The powers conferred on Congress by the Constitution are, generally speaking, clear cut and definite. They are specific in their nature and easy of interpretation. They give to Congress certain powers through which it may do certain acts. But there are at least two clauses in the Constitution that give to Congress general powers under which it may enact legislation not specifically mentioned in any part of the fundamental law of the land. In Article I, Section 8, Clause 18, the Constitution says the Congress shall have power "To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof." The discussion over the interpretation of this elastic clause gave rise to the two early political groups known as the "loose constructionists" and the "strict constructionists." When Hamilton argued in support of the charter for the first United States Bank he said this clause clearly stated that Congress had the power to charter a bank because the bank was necessary to carry out other powers specifically given to Congress by the Constitution. The general welfare clause is found in Article I, Section 8, Clause 1. It says Congress shall have power "To lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defense and the general welfare of the United States." Under this clause Congress has enacted legislation that is nowhere specifically mentioned in the Constitution. The Supreme Court has also upheld many acts of legis-

lation on the ground that they were for the general welfare of the country.

**Special Powers Given to Each House.** The Constitution provides that each house may perfect its own organization and control its own members. In addition to the power of organization the House may exercise four special powers: the power to initiate all bills for raising revenue; the power of impeachment; the power to elect the President in case no choice is made by the electors; the power to defeat a treaty requiring an appropriation to carry it out, by refusing to make the appropriation. The Senate has four special powers also: power to ratify treaties; power to confirm appointments of the President; power to act as a court of impeachment; power to choose a Vice-President in case of no election.

**The Committee System.** The object of committees in either branch of a legislature is to hasten the process of legislation. During a single session of Congress there are often more than thirty thousand bills introduced. If each one of these bills were discussed by the whole House, even though each were given but a few minutes, it would require much more time than the session affords. At such rate many bills could not be considered at all. But each committee acts as a little legislature in itself, and if there were ten committees holding that many sessions at one time, there would in reality be ten different legislatures working instead of one. By this method many more bills may be considered than what one house alone could attend to.

In the sixty-first Congress there were seventy-two standing committees in the Senate and sixty-two in the House. Usually there are also several select committees,

and occasionally a few joint committees. In the Senate the committees vary in size from three to twenty members; in the House from five to twenty. The most important committees in the Senate are those on appropriations, commerce, finance, foreign relations, interstate commerce, judiciary, etc. In the House the most important committees are ways and means, appropriations, banking and currency, foreign affairs, interstate and foreign commerce, etc. The committees in the Senate are appointed by the Senate itself from the recommendations made by two committees chosen for that purpose. In the House, according to the new rule adopted in 1911, all standing committees are elected in a manner similar to the method used in the Senate. The chairmanship of each committee is given to a member of the dominant party and that party also has a majority of the members on each committee.

**Powers of the Speaker.** Previous to 1911, the speaker had the power to appoint all committees; to choose the chairman of the committees; to refer bills to the committees, unless overruled by the House; to act as chairman of the committee on rules; to recognize whom he pleased on the floor of the House. The change made in the rules in 1911, took away from the speaker the power to act as chairman of the committee on rules, and also the power to name the committees and to choose the chairman. He still possesses the power to refer bills and to recognize members when they rise to speak during the sessions. He still possesses large powers over legislation through these two powers. He may practically refuse to recognize a member of the opposition party if a member of his own party wishes to speak at the same time.

## QUESTIONS

1. What is the difference between foreign commerce and interstate commerce?
2. State the full process whereby a foreigner may become a citizen of the United States.
3. What is the punishment for counterfeiting the securities of the United States?
4. How may a person secure a copyright to a book he wishes to publish?
5. For how long is a patent right good? What is the cost of securing it?
6. Who has power in the United States to declare war? Who may declare peace?
7. What is meant by the *elastic clause* in the Constitution?
8. What special powers does each house of Congress possess?
9. Of what benefit are committees in Congress? How are committees chosen in the House of Representatives?
10. In what way does the speaker have great influence over legislation in Congress?



## CHAPTER VII.

### EXECUTIVE DEPARTMENT

**Necessity of an Executive.** Good government requires that laws shall be enforced as well as laws shall be enacted. No matter how excellent the laws may be, if they are not enforced, the government will be of little effect. The chief duty of the executive is to enforce the laws and compel the people to observe them. In order to carry out this duty the President, as chief executive, is given great authority and power. He is the commander-in-chief of the army and navy and may use them, if necessary, in order to carry out the administration of the government. However important may be the powers of the President to pass legislation, and however much power he may have over the judiciary through the power of appointment of judges, it still remains true that the president's greatest power is the enforcement of the law.

When the Constitutional Convention was in session at Philadelphia, it spent more time discussing the duties and powers of the executive, and the form the office should take, than it did any other department. At one time it was suggested that the executive office should be multiple in form, that is, it should consist of two or more persons. The Virginia, Hamilton and Pinckney plans all agreed that the executive should consist of one person. The term of office was also difficult to determine. Various suggestions were made and the term varied from two years to life tenure.

**Qualifications for President.** The Constitution determines the qualifications for President and says he must be at least thirty-five years of age, he must be a native-born citizen or a citizen at the time of the adoption of the Constitution, and must be fourteen years a resident of the United States. The Vice-President has the same qualifications as does the President. When the Constitution was made there were many good and patriotic men in the United States who were foreign born. Some of them were Hamilton, James Wilson, Albert Gallatin and William Patterson, any one of whom was well qualified to act as President of the nation. The clause in the statement of qualifications for President, saying any "citizen at the time of the adoption of the Constitution," was intended to favor such men.

**Method of Election.** The Constitution provides that each state may choose, in any manner the state legislature may direct, as many electors as the state has members in both houses of Congress. The electors shall meet in their respective states, and vote by ballot for President and Vice-President, one of whom shall not be of the same state as the other. The vote of the electors is then signed and sealed and transmitted to the President of the Senate who, in the presence of the Senate and the House of Representatives, shall open all the certificates and the votes shall be counted. The person having the greatest number of votes for President shall be President, and the person having the greatest number of votes for Vice-President shall be Vice-President. If no person has a majority of all votes for President, the House of Representatives shall immediately choose a President from the three having the highest number of votes. If no Vice-President is chosen by election, the Senate shall immediately choose by ballot a Vice-

President from the two candidates for Vice-President having the highest number of votes. When the House chooses a President a quorum shall consist of a member or members from two-thirds of the states. When the Senate chooses a Vice-President a quorum shall consist of two-thirds of the whole number of senators, and the majority of the whole number shall be necessary to a choice.

**Defects in the System of Election.** The Constitution at first provided that the electors should vote for two persons without designating which should be President and which Vice-President. As a result of this, when political parties came into existence, the President was apt to be chosen from one party and the Vice-President from another. This defect was remedied by the adoption of the twelfth amendment, which provided that each elector must vote for one person as President and another person as Vice-President. Another defect with the system is that the electoral college members may cast their votes without regard to the wishes of the majority of the people. At present the electors in each state cast their entire vote for the candidate favored by the party in the state casting the largest vote. Suppose in Iowa the Republican party cast a vote of eighty thousand, and the Democratic party cast a vote of ninety-five thousand, and other parties casting smaller votes — then the Democratic party would get all of Iowa's thirteen votes. Now suppose in New York State the vote between the larger parties was very close and the Republicans were to receive two hundred fifty thousand votes and the Democrats two hundred forty-five thousand — then all the electoral votes in New York would go to the Republicans, and that state has forty-two of them. Thus we see that in the electoral college the Republicans

would have a majority of twenty-nine, while the majority of the people voted the Democratic ticket by ten thousand. This illustration only considers two states, but the result when all the states are considered is the same.

**Term, Salary, Re-eligibility.** The matter of length of term of service of the President was long debated when the Constitution was being framed. Some members in the convention thought he should be chosen for a short term and subject to re-election if he gave satisfaction. Others thought that would cause the government to lack stability and bring about too frequent changes. Some advocated life tenure for the President. Others thought he ought to have a long term of seven or eight years and then be denied the privilege of re-election. It was finally compromised by fixing the term at four years and making the President subject to re-election. Custom has since practically determined that the President may serve only two terms. The salary has changed from twenty-five thousand dollars during the early years, to seventy-five thousand dollars and traveling expenses at the present time.

**Presidential Succession.** The Constitution provides that in case of removal, death, resignation, or inability of the President to serve, the Vice-President shall become President, and adds that Congress shall have power to make further provision as to the succession. In 1886, Congress passed a bill determining the presidential succession. It provides that in case of the inability of the President and the Vice-President to perform the duties of the office, the cabinet officers shall succeed in the following order: (1) Secretary of State, (2) Secretary of the Treasury, (3) Secretary of War, (4) Attorney-General, (5) Postmaster-General, (6) Secretary of the

Navy, (7) Secretary of the Interior. The other cabinet officers of the present time did not then exist, and as they are not named in the law, they are held as not being within the list of succession.

**Duties and Powers.** It is to be remembered that the duties and powers of the President are primarily executive. We have already said his chief function is the execution of the law, but this does not include every power he has, for he may exercise certain powers in both legislative and judicial matters. His executive functions are set forth in Article II, Section 2, of the Constitution and are the following: he is commander-in-chief of the army and navy of the United States, and of the militia of the several states when called into the service of the United States; he may require his cabinet officers to make written reports to him concerning their departments; he may make treaties with the advice and consent of two-thirds of the Senate: he may nominate, and with the advice and consent of the Senate, appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers not otherwise provided for by the Constitution or by law; he may receive ambassadors and other public ministers; he may commission all officers of the United States; he must see to it that all federal laws are faithfully executed. His legislative powers include the power to sign or veto bills passed by Congress; to give to Congress information concerning the state of the Union, to recommend to Congress such legislation as is needed by the country; to call special sessions of Congress when he thinks it is necessary; to adjourn Congress when the two houses cannot agree upon a time for adjournment. His judicial powers include the power to grant reprieves and pardons, and to commute sentences for offenses com-



mitted against the United States except in cases of impeachment.

It will be readily observed that the duties and powers as given are not strictly classified. Some are primarily of one nature, yet include acts of another nature. In the making of treaties, for example, the President exercises both legislative and executive powers at one and the same time. When he pardons a person guilty of committing an offense against the United States, he at once performs both an executive and a judicial act — it is executive in that he stops the further executive act of punishing, while it is judicial in that he has set aside a verdict of the court.

**The Veto Power.** The President has what is known as the qualified veto power. He may veto a bill that has passed both houses of Congress and is presented to him for his signature. That act does not absolutely stop the enactment of the bill into a law, for the two houses may by a two-thirds vote, pass the bill over the veto. The President's veto is very effective and it is very seldom that Congress will pass a bill over the veto of the President. If Congress sends a bill to the President at the close of the session and then adjourns, it will cause the bill to be lost. This is what is called a pocket veto. The only way to avoid a pocket veto is for Congress to remain in session for at least ten days (Sundays excepted) after the last bill is sent to the President. The object of the veto is to protect the nation from hasty and unwise legislation. By its use the President can prevent a bad bill from becoming a law.

**The Vice-President.** The Vice-President has no duties as such, as long as the President remains in office. While the President is in office the only duty involving upon

the Vice-President is to preside over the Senate. He is President of the United States Senate and as such has no authority to advise or assist the President in any way. Upon the death or removal of the President from office the Vice-President becomes President.

**Impeachment.** Article II, Section 4, of the Constitution reads: The President, Vice-President, and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors. The process of impeachment consists of two separate acts: one is the bringing of a formal accusation against the person by the House of Representatives — this is known as being impeached; the other act is the formal trial of the accused person by the United States Senate, which trial may result either in a conviction or an acquittal. Since the beginning of the government in 1789 there have been nine instances of impeachment by the House and three cases of conviction by the Senate. The punishment on impeachment and conviction extends only to removal from office and disqualification to hold or enjoy any office of honor or trust under the United States. In case of conviction the judgment may be but a part of the entire punishment, that is, a person may be removed from office, but not disqualified from again holding office. The persons impeached have been as follows: William Blount, Senator from Tennessee, 1797-98; John Pickering, District Judge from New Hampshire, 1803-04; Samuel Chase, Justice of the Supreme Court, 1804-05; James Peck, Judge of the District Court, 1829-30; West H. Humphreys, District Judge for Tennessee, 1862; Andrew Johnson, President of the United States, 1867; William W. Belknap, Secretary of War, 1876; Charles Swayne, District Judge

for Northern Florida, 1905; Robert W. Archbold, Judge of the United States Court of Commerce, 1912-13. In the case of William Blount the Senate decided it had no power to impeach senators and representatives. Pickering, Humphreys and Archbold were convicted and removed from office; the other cases resulted in acquittal.

### QUESTIONS

1. What are the chief duties of the President of the United States?
2. State the qualifications for President. Could Hamilton have been elected President?
3. Tell how a President of the United States is chosen.
4. What are the defects in the present system of choosing a President?
5. When was the salary of the President raised to seventy-five thousand dollars?
6. State the order of succession to the presidency.
7. Mention one legislative and one judicial power of the President.
8. How may Congress pass a bill over the President's veto?

## CHAPTER VIII.

### EXECUTIVE DEPARTMENT

*(Continued)*

**Origin of the Cabinet.** The Constitution does not directly provide for the cabinet. The cabinet was organized in accordance with an act of Congress passed in 1789, providing for such body of advisers to the President of the United States. Article II, Section 2, of the Constitution, says the President may require the opinion in writing, of the principal officers in each of the executive departments, upon any subject relating to the duties of their respective offices. This would indicate that the Constitution makers had in mind some such body of executive heads as the later act of Congress provided for. The purpose of the act providing for the cabinet is to give to the President the power to appoint the heads of the various executive departments of the Federal Government and to choose them from among such political leaders as will work in harmony with the views of the President and with those of the administration.

**Organization of Departments.** The act of 1789 created three department heads, known as cabinet members—Secretary of State, Secretary of the Treasury, and Secretary of War. Another department existed and had at its head the Attorney-General, but he did not become a member of the cabinet until a later date. Other heads of departments were admitted to seats in the cabinet as follows: Secretary of the Navy, 1798; Post-

master-General, 1829; Secretary of the Interior, 1849; Attorney-General, 1870; Secretary of Agriculture, 1889; Secretary of Commerce, 1903; Secretary of Labor, 1913. The departments are thoroughly organized, each having at its head a secretary, who is appointed by the President and confirmed by the Senate, and is directly responsible to the President. Any cabinet member may be removed from office by the President at will and the removal may take place immediately except in case of the Secretary of the Treasury and the Postmaster-General, both of whom must have a specified time in which to close up the accounts of the office. Each department is subdivided into bureaus each with a commissioner at its head, who is directly responsible to the secretary. The bureaus are again subdivided into divisions, each of which has its chief, who is responsible to the commissioner. Below these subdivisions, or similar subdivisions, are many secretaries and clerks taking care of the routine business of each department.

**The State Department.** The Secretary of State is at the head of the State Department. He is the ranking officer of the cabinet and is the first in the line of presidential succession after the Vice-President. He is given precedence to other members of the cabinet on ceremonial occasions and sits at the right hand of the President during cabinet meetings. There are three or more assistant secretaries in the department, one of whom is a permanent officer and does not change with a change of presidents. The Secretary of State has three different functions: First, he is the keeper of the great seal and of the archives of the United States. Under this function he countersigns the proclamations and commissions of the President and receives and publishes the acts and proceedings of Congress. Secondly, the Secretary is the



agent between the Federal Government and the states of the Union. As such he receives requests from foreign countries for the extradition of criminals, and requests from the governors of the states for troops to quell riots or domestic disturbances. Thirdly, the Secretary is the agent between the United States and foreign countries. In this capacity he is the minister of foreign affairs and carries on all diplomatic correspondence with other nations.

**Department of the Treasury.** The Secretary of the Treasury is at the head of the department which concerns itself principally with the care of the nation's finances. The work of the department includes the administration of the revenue laws, the caring for the nation's money, the auditing and accounting service, the administration of currency and national banking laws, and various miscellaneous duties not exactly belonging to the department, such as the life-saving service, printing and engraving, the construction of public buildings, and marine hospital service. The Secretary of the Treasury estimates the probable revenue and the probable expenditures of the government from year to year, and he submits these estimates to Congress. The chief officers of the department next to the Secretary are: the treasurer, who receives and disburses upon proper warrant all public moneys; the register of the treasury, who issues and signs all bonds of the United States; the comptroller of the treasury, who prescribes the form of keeping the accounts and decides upon the validity of payment; the six auditors, who examine and settle all claims for the various departments; the director of the mint, who administers the coinage laws; the comptroller of the currency exercises supervision over the national banks.

**The War Department.** The Secretary of War directs the military affairs of the government and is next to the President in the control over the army. He has charge of the army records, directs the purchase of army stores and supplies, provides army transportation, and is in charge of the signal service. The department has various bureaus under the charge of the following officers: The adjutant-general, the quartermaster-general, the commissary-general, the paymaster-general, the surgeon-general, the chief of engineers, the judge-advocate general, the chief signal officer, the chief of ordnance and the inspector-general. The President is the commander-in-chief of the army and navy. He carries out his wishes through the Secretary of the War Department and through the general army staff, consisting of about sixty officers, ranging from captain to brigadier-general. The chief of staff is in charge of the army and is accountable only to the President and to the Secretary of War.

**Department of Justice.** The Attorney-General is the head of this department and is the chief legal adviser of the President and other federal officers. He represents the United States in cases before the Supreme Court and he has a supervisory control over the United States district attorneys and over the marshals and federal penal institutions. He renders opinions upon questions of law submitted to him, and his decisions are bound and constitute a valuable body of constitutional and administrative law.

**Post-office Department.** The Postmaster-General is the head officer of the Post-office Department. He establishes and discontinues post-offices, appoints postmasters of the fourth class, issues postal regulations and makes postal treaties with other nations, awards mail contracts, and

has supervision over domestic and foreign mail service. There are four assistant postmasters-general, each of whom has charge of some branch of the department's business.

**The Department of the Interior.** The head of this department is the Secretary of the Interior. The department is one of the largest in the cabinet group of members, and next to the post-office department serves more people directly. This department has charge of public lands, Indian affairs, the geological survey, patents, pensions, and the government of territories. There are two assistant secretaries besides six commissioners and two directors.

**The Navy Department.** The Secretary of the Navy, like the Secretary of War, is generally taken from civil life and is frequently unacquainted with naval affairs until entering office. He is next to the President in the control over the United States Navy. The Navy Department has general supervision over the construction, manning, equipment and employment of war vessels. There are seven bureaus in the department each under a naval officer. The bureaus are: The bureau of yards and docks, equipment and recruiting, ordnance, construction and repair, steam engineering, supplies, and medicine and surgery.

**Department of Agriculture.** The head of this department is the Secretary of Agriculture. The purpose of the department is to gather and disseminate among the people all information that is of benefit to those cultivating the soil and raising live-stock, poultry, etc. The work includes the introducing of plants and seeds from one part of the country to another, the testing of what

crops are best adapted to certain localities, and the methods of exterminating injurious animals and insects. The work of the department is divided among several bureaus the names of which indicate their purpose: The weather bureau; the bureau of animal industry; the bureau of plant industry; the bureau of forestry; the bureau of chemistry; the bureau of soils; the bureau of entomology; the bureau of vegetable physiology and pathology; the bureau of biological survey; the bureaus of seeds, botany, gardens, public road inquiries and experiment stations.

**Department of Commerce.** Until 1913, the Department of Commerce was united with the Department of Labor and under both titles. Since 1913, the Department of Commerce relates primarily to commerce alone. This department includes the lighthouse board and establishment, the steamboat inspection service, the bureau of navigation, the work of the United States shipping commissioners, the coast and geodetic survey, the bureau of weights and measures, the bureau of statistics, the bureau of immigration and naturalization.

**Department of Labor.** This department was created by an act of Congress passed in 1913, and it took up such duties as related to labor rather than to commerce. The work of the new department includes the bureau of the census, the bureau of labor, the bureau of fisheries, the bureau of corporations, the bureau of manufactures, etc.

## QUESTIONS

1. What marks the origin of the President's cabinet in the United States?
2. How many cabinet officers were there in Washington's cabinet?
3. Give the dates at which each of the cabinet officers was admitted to a seat in the cabinet.
4. What are the duties of the cabinet officers in their relation to the President?
5. What relation has the cabinet officers to Congress?
6. Describe the duties and powers of the Secretary of State.
7. What officer in the Treasury Department has supervision over national banks?
8. Does the President ever command the troops of the United States in time of war?
9. Who appoints postmasters? Are the postmasters under the civil service rules?
10. Of what benefit is the Department of Agriculture to the American farmer?



## CHAPTER IX.

### THE JUDICIARY

**Origin of the Federal Courts.** We have already noticed that one of the grave weaknesses of the government under the Articles of Confederation was that there was no system of federal courts. The only federal judicial powers existing at that time were such as Congress possessed and they were very limited. If a person counterfeited the currency of the United States, or if he robbed the mails, the Federal Government could not deal with him directly, but could only request the state in which the act was committed to punish the offender. The Federal Government could not reach the individual for the punishment of crime except through the states. Oftentimes the states did not like to punish one of their own citizens for committing an act against the Federal Government, but would have readily punished him had he committed the same act against the state. It also became clear that there must be somewhere a power and authority to interpret the acts of Congress and of the states and decide when they were in conflict with the Constitution of the United States. Were it not for such power laws might be in direct conflict with the Constitution and yet continue to be enforced in some of the states. The Constitution makers realized that there must be a system of federal courts for the interpretation of federal law and treaties, and for the trial of such cases as did not concern any of the states, or of cases between states.

**Present Federal Courts.** The Constitution provides in Article III for the United States Courts. It says the judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish. So we see that only one of the United States Courts — the Supreme Court — is directly provided for by the Constitution. The power to provide for all the other federal courts is given to Congress. Congress has made provision for such other courts as the country needs, and has on two or three occasions abolished some and established others. During the years 1913-14, the federal courts were as follows: The Supreme Court, established by the Constitution; the Circuit Courts of Appeals, established in 1891; the District Courts, established in 1789; the Court of Claims, established 1855; the Court of Customs Appeals, established 1909; the Commerce Court, established 1910; two United States Courts for the District of Columbia, one a supreme court and the other a court of appeals. Other courts created by Congress, although not commonly known as federal courts, are: Supreme and district courts for the territories; consular courts, established in countries where the legal system is wholly different from that of America and England; and a Court of Private Land Claims.

The judges of all these courts are appointed by the President and confirmed by the Senate and serve during good behavior. They may be removed from office only through the process of impeachment. The salaries received by the judges in the Supreme Court are \$15,000 for the chief justice and \$14,500 for each associate justice. The judges in the Circuit Courts of Appeals receive \$7000 per year, and the judges in the District Courts receive \$6000. Any judge of a United States Court who has

held his office for a period of ten years and has attained to the age of seventy years may retire on full pay.

**Jurisdiction of the Courts.** The Supreme Court has original jurisdiction in all cases affecting ambassadors, other public ministers, and consuls, and cases to which a state is a party. By original jurisdiction is meant the authority to try a case the first time, or in other words, to allow the case to originate in that court. We can readily see that it is important that such cases as those named should be tried only in the Supreme Court. If the states were to try such cases there might be as many different interpretations as there are states. It is necessary that there should be uniformity. By appellate jurisdiction is meant the right to hear cases appealed from a lower court where they originated, and the appeal is allowed generally because some error has been committed. The appellate jurisdiction of the Supreme Court includes cases concerning the construction or application of the National Constitution; the constitutionality of a law of Congress; the validity or construction of a law of Congress; the conformity of state laws to the National Constitution; appeals also lie to the Supreme Court from the supreme courts of the territories.

The Circuit Courts of Appeals have only appellate jurisdiction. These courts may review the final decisions of the district courts on appeal or on writ of error. They may also give final decisions in patent, revenue, criminal and admiralty cases. There are nine circuit courts of appeal.

The District Courts have jurisdiction in some civil cases and in admiralty cases. They also try cases where crimes are committed against the United States within the district or upon the high seas. The entire country is divided into District Court districts, and there are at

present from one to four courts in each district. The number of districts is about ninety, each state constituting one district, or it may be divided into two, three or four districts.

The Court of Claims is for the purpose of hearing claims made by citizens against the United States. The Constitution originally gave an individual the right to sue a state and such case was actually brought in 1793 in the person of *Chisholm vs. Georgia*. The decision of this case showed that an individual could actually destroy the sovereign power of a state and compel the state to yield. Congress was soon urged to amend the Constitution so as to forbid such suits against the United States. Such amendment was submitted by Congress and ratified by the states in 1798, and since that time an individual cannot sue the United States.

The Court of Customs Appeals hears appeals from the decisions of the Board of Appraisers of the duties charged on imported goods. If an importer of goods thinks he has been unlawfully taxed he may appeal to the Board of Appraisers and from there, under certain conditions, he may appeal to the Court of Customs Appeals.

The Court of Commerce hears appeals from the Interstate Commerce Commission in much the same manner as does the Court of Customs Appeals from the Board of Appraisers.

**The Constitution and the Courts.** We have seen that the Constitution provides for the courts by creating the Supreme Court and giving Congress power to provide for other courts. We have also seen that the Constitution has determined the jurisdiction of the federal courts. It does not determine just what particular jurisdiction each court must exercise, except in the case of the Supreme Court, but it leaves the distri-

bution of the jurisdiction among the different courts, to the will of Congress. We must remember, however, that Congress can neither increase nor diminish the total jurisdiction of the federal courts. It may create new courts and give them some of the jurisdiction of the other courts, or it may abolish a court and divide the jurisdiction formerly exercised by that court among other courts. The Constitution also guarantees certain protection to individuals when tried in federal courts. The fifth amendment provides that no person shall be held for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury. Some of the states have abolished the grand jury, and provided for prosecutions in their courts without indictments so found, but this amendment forbids a person being so punished in a federal court. The first ten amendments do not place limitations upon the states, but only on Congress. The sixth amendment requires that in criminal prosecutions (in federal courts) the accused shall enjoy the right of a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed. It also requires that he shall be informed of the nature and cause of the accusation, and that he shall have the right to be confronted by the witness against him, that he shall have compulsory process for obtaining witnesses in his favor, and that he shall have the assistance of counsel for his defense. The eighth amendment declares that excessive bail shall not be required, nor excessive fines imposed, nor cruel or unusual punishment inflicted. The Constitution also leaves to Congress the authority to define treason and to prescribe the punishment rather than to place such authority in the courts.



## QUESTIONS

1. How many departments of government existed under the Articles of Confederation?
2. Could the Federal Government have arrested and tried a man for robbing the mail during the time of the Confederation?
3. Give the names of the present United States courts?
4. How many of the United States courts are directly provided for in the Constitution?
5. What is the original jurisdiction of the United States Supreme Court?
6. If one foreign ambassador in Washington injures another, in what court could the other bring suit?
7. May an individual sue the United States? May he sue a state?

## CHAPTER X.

### TERRITORIES AND TERRITORIAL GOVERNMENT

**Origin of Territories.** When the Constitution was adopted in 1789, the United States Government possessed a large tract of western lands which was formerly claimed by some of the states, but had been ceded to the National Government while yet under the Articles of Confederation. This first area of public land included the entire strip of country between the Allegheny Mountains and the Mississippi River, and from the Great Lakes on the north to Florida on the south. On July 13, 1787, the lands north of the Ohio River were organized into the Northwest Territory and given a territorial government. This was the first instance of territorial government in the United States. On May 26, 1790, the lands south of the Ohio River were organized into the Southwest Territory, and given a territorial government very similar to that of the Northwest. In 1803, came the first instance of what we have later referred to as the policy of expansion. On April 30, 1803, the United States purchased the Louisiana Territory from France, and it was the first addition to the original territory of the United States. In 1819, we acquired Florida Territory from Spain by purchase. In 1845, Texas, which claimed to be independent from Mexico since 1835, applied for annexation to the United States, and was annexed by a joint resolution of Congress. By the treaty of Oregon in 1846, we acquired title to what is now Oregon, Washington, and Idaho. In 1853, we acquired a small strip of territory known as the Gadsden

Purchase in the adjustment of our boundary with Mexico. In 1867, we purchased Alaska from Russia. In 1898, Congress annexed Hawaiian Islands by a joint resolution. By the Treaty of Paris in 1898, the United States acquired Porto Rico, the Philippines and the island of Guam from Spain. On April 17, 1900, by a formal cession of the islands by the chiefs, the United States came into possession of Tutuila, and about the same time we extended our claim to three small islands in the Pacific — Midway, Baker and Wake. By the treaty with Panama in February, 1904, we came into possession, occupation and control of the canal zone, a strip of land ten miles wide stretching across the Isthmus of Panama from ocean to ocean. For this land we paid the Republic of Panama the sum of ten million dollars.

**Territorial Government.** The thirteen original states, together with Vermont, Kentucky, Texas, California and West Virginia, never existed as territories. All other states within the Union did at first have territorial government. The Constitution of the United States provides in Article IV, Section 2, Clause 3, that "The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory and other property belonging to the United States." Under this provision of the Constitution Congress derives its power and authority to govern and control territories. The first territorial government was provided by an act of Congress on July 13, 1787, and was called the Organic Act for the Territory of the Northwest. It was a kind of Constitution for the territory according to which the people of that territory could govern themselves. The organic acts governing all other territories from that time to this have been copied largely from the Organic Act of 1787. Since the admission of Arizona and New

Mexico into the Union in 1912 we no longer have territories within the contiguous portion of the United States. The District of Columbia is a territory in the sense of being governed like one, but it is not in a preparatory period for statehood like other territories have been. The District of Columbia is governed by Congress directly so as to give the Federal Government complete control over the capital city containing the government buildings. The District is governed by a commission of three members appointed by the President and confirmed by the Senate. Two of the commissioners must be chosen from civil life and the third must be a military engineer chosen from the army. This commission has both executive and legislative control. Congress legislates directly for the District. The District has no delegate in Congress and the people have no voice in the government, and cannot vote for President. The taxes are divided among the people of the city and Congress — each paying half of the city's expenditures. The commissioners serve for a term of three years and receive an annual salary of \$5000.

The other territories of the United States may be classified into three groups — the fully organized territories, those partially organized, and the unorganized territories. Hawaii and Porto Rico are examples of the first group. These territories were each given an organic act, according to which they enjoy large powers of local self-government, in 1900. Their governments are similar, differing only in that in Hawaii both houses of the territorial legislature are elected by the people while in Porto Rico the members of the upper house are appointed by the President of the United States. The principal officers of each territory are appointed by the President with the consent of the Senate and comprise the following: A governor; a secretary; an attorney-

general; an auditor; a treasurer; a superintendent of public instruction; a chief justice; a commissioner of the interior, or, as in Hawaii, called public land commissioner. The governor has power to veto acts of the legislature, and acts of legislation when passed by the territory are subject to disallowance by Congress. The territorial legislatures are bicameral in form. The upper house is known as the Council and the lower house as the House of Representatives. The judicial systems consist of a supreme court, whose judges are appointed by the President; of district courts, whose judges are appointed by the governor, and municipal courts, whose judges are elected by the people. These territories, as well as others, have each one delegate in the United States House of Representatives, who has the right to debate, but not to vote.

The Philippine Islands comprise a territory of the second group, or partially organized territories. In such territories Congress exercises more immediate control than those fully organized. The act of 1909 provided for a governor-general; a secretary of the interior; a secretary of commerce and police; a secretary of justice and finance; a secretary of public instruction. All of these officers are appointed by the President and confirmed by the Senate. The judicial system consists of a supreme court, whose judges are appointed by the President and Senate, and provincial courts and justices of the peace appointed by the governor-general. The legislature consists of a lower house elected by the people, and an upper house composed of the chief executive officers of the territory and four other members appointed by the President. The Filipinos and the Porto Ricans have not been declared citizens of the United States. The people of Hawaii and of Alaska have been made citizens by an act of Congress.



The government of Alaska is also of the partially organized type. By the act of 1900, Congress provided for a government consisting of a governor, a surveyor-general, a district attorney and four judges, all of whom are appointed by the President and confirmed by the Senate. The territory also has a delegate in Congress, who has the right of debate, but not of voting. He receives the same salary as do other representatives. The act of Congress of 1912 gave Alaska a territorial legislature to consist of a Senate, consisting of eight members (two from each of the four judicial districts into which Alaska is now divided), and a House of Representatives of sixteen members (four from each judicial district). The legislature is convened biennially on the first Monday in March and continues in session not longer than sixty days. The governor has the veto power, but his veto may be passed over by a two-thirds vote of all the members of each house. The laws passed by the territorial legislature are submitted to the President of the United States and by him are referred to Congress, which has power to disallow any law it may see fit.

An act passed by Congress, August 24, 1912, provided for the government of the canal-strip. The President was to continue the existence of the Isthmian Canal Commission until the completion of the canal, and until he deemed it necessary to inaugurate civil government. The President issued an executive order in January, 1914, by which the Commission was discontinued and a civil governor was appointed, with power to name his assistants to conduct the government and care for the canal zone and the canal. Colonel George W. Goethals, the chairman of the Isthmian Canal Commission and chief engineer, was appointed by the President to be the first civil governor of the canal zone.

## QUESTIONS

1. How did the United States first come into possession of public lands?
2. What were the principal provisions of the Organic Act for the Northwest Territory?
3. Give the names and dates of all the territorial lands acquired by the United States from the beginning of the government up to the present.
4. Does the Constitution provide for the acquisition of territory?
5. How is the District of Columbia governed?
6. What is the difference between fully and partially organized territory?
7. Of what value to the United States has been the Philippine Islands?
8. What were the conditions under which the United States acquired Porto Rico?
9. What is the area of our various territorial acquisitions?
10. Of what value to the United States is the territory of Alaska?

## CHAPTER XI.

### MISCELLANEOUS MATTERS

**Diplomatic and Consular Service.** The purpose of the diplomatic and consular service may be briefly stated to be the following: To assist in adjusting international difficulties; to further our commercial interests by finding markets for our goods and learning where we can buy the cheapest those things our people need; to assist our citizens in business and travel; to keep up friendly relations with foreign nations; to maintain the dignity and rank of our nation among foreign countries. The President is at the head of the diplomatic and the consular service and the Secretary of State is second in charge. The details of the work are carried out through two bureaus in the State Department, one known as the Diplomatic Bureau and the other known as the Consular Bureau. Both diplomats and consuls are foreign agents sent by the United States to foreign countries. Diplomatic agents represent the political interests of the United States, while consular agents represent the business interests of the country. The title of Ambassador was not created by Congress until 1893. Previous to that time the highest diplomatic agent of the United States was called Minister. There are at present four grades of officers in the diplomatic service: Ambassadors; Envoys extraordinary; Ministers resident, and Charge de affaires. In 1914, the United States sent ambassadors to ten different countries as follows: England, Germany, France, Russia,

Austria, Italy, Japan, Turkey, Mexico, and Brazil. To countries of less importance or of lower rank we send ministers or envoys. Diplomatic agents have full immunity from arrest and their residences are considered as foreign territory. They are not subject to the laws of the country to which they are sent. The salaries of ambassadors are from \$17,500 to \$12,500 per year. The salaries of ministers and envoys are less.

Consular agents are also divided into four general classes as follows: Consuls-General; Consuls; Vice-Consuls; Consular Agents. Consuls and consular agents are found in almost every large city through the world. Wherever the United States has commercial and business interests it must have one or more consular agents. The consular agents make monthly reports to the State Department concerning the commercial conditions in other countries. They keep the business men of the country informed concerning the markets for our goods in foreign countries, and they furnish information as to where our merchants may purchase cheapest the goods they want. These reports are all made through the State Department, which publishes them in monthly statements and sends them through the mails to whomsoever may apply for them.

**Federal Finance.** The Constitution provides that Congress has power to levy and collect its own revenues. The two kinds of taxes recognized by the Constitution are direct and indirect taxes. A direct tax is one paid by a person in the form of money or labor given as a tax. An indirect tax is a sum of money added to the price of an article and is paid as part of the purchase price. The Constitution says all direct taxes shall be apportioned among the states on the basis of population. It is easy to see the injustice of a tax levied on such basis

inasmuch as there might easily be twice as much property in one state as in another having the same population. Congress had, up to 1913, levied such direct tax but five times in our entire history as a nation — 1798, 1813, 1815, 1816, 1861. Direct taxes are such as poll tax, land tax and tax on personal property as horses, wagons, jewelry, etc. Indirect taxes are such as duties, imposts, excises, etc. Since the Civil War the two chief sources of federal income to support the government have been duties on imports and internal revenue or excise taxes. In 1909, Congress enacted a law levying a tax of one percent upon the net income above \$5000 of all corporations, joint stock companies, and associations. The tariff act of 1913, contained a provision levying a graduated income tax on the incomes of all persons if the income exceeded a certain amount. Therefore at the present time the federal revenues are derived from imposts, excises, and direct income taxes. The sixteenth amendment to the Constitution, in 1913, provided that Congress may levy a direct income tax on the income of the individual without apportioning it among the states according to population. It is to be remembered that the only direct tax paid by the individual for the support of the Federal Government is in the form of the recent income taxes. The ordinary taxes paid by every individual who owns property or pays poll tax is used for state purposes and not for the support of the Federal Government.

**Amendment of the Constitution.** Article V of the Constitution states the manner in which it may be amended. Amendments may be proposed in either of two ways, and they may be ratified by the states in either of two ways. First, an amendment may be proposed by being presented in either house of Congress



and passed by a two-thirds vote of each house. Second an amendment may be proposed by a convention called by Congress at the demand of two-thirds of all the states. An amendment may be ratified — first, by passing the legislatures of three-fourths of all the states, and second, by passing conventions called in three-fourths of all the states. Congress has power to declare which method of ratification may be used. The object of having these four ways of amending the Constitution is to afford the people the right to demand a change of the Constitution if Congress refuses to act. Thus, if Congress refuses to propose an amendment to the Constitution when the people think such is necessary, they may, through their legislatures, demand that Congress call a convention for that purpose.

The first ten amendments were added to the Constitution in 1790, and serve as a bill of rights. The other amendments were added on the following dates: The eleventh amendment in 1798; the twelfth in 1804; the thirteenth in 1865; the fourteenth in 1868; the fifteenth in 1870; the sixteenth and the seventeenth in 1913. The sixteenth amendment provides that Congress may levy an income tax without apportioning it among the states according to population. The seventeenth amendment provides for the election of United States senators by a direct vote of the people in the several states.

## QUESTIONS

1. Name the four grades of our foreign diplomatic agents and state to what countries ambassadors are sent.
2. What is the difference in purpose of ambassadors and consuls?
3. What do we mean by "diplomatic immunity"?
4. What are consular courts?
5. By what different means is the Federal Government supported?
6. What is the distinction between a direct and an indirect tax?
7. What is a graduated income tax?
8. In how many ways may the Federal Constitution be amended?
9. Does the first amendment to the Constitution prohibit a state from passing a law establishing a state religion?
10. Give the substance of each of the seventeen amendments to the Constitution.



## APPENDIX

### THE CONSTITUTION OF THE UNITED STATES

#### PREAMBLE

We, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

#### ARTICLE I.

##### SECTION 1

All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

##### SECTION 2

The House of Representatives shall be composed of members chosen every second year by the people of the several states, and the electors in each state shall have the qualifications requisite for electors of the most numerous branch of the state legislature.

No person shall be a representative who shall not have attained the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state in which he shall be chosen.

Representatives and direct taxes shall be apportioned among the several states which may be included within this

Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons. The actual enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of representatives shall not exceed one for every thirty thousand, but each state shall have at least one representative; and until such enumeration shall be made, the State of *New Hampshire* shall be entitled to choose three, *Massachusetts* eight, *Rhode Island and Providence Plantations* one, *Connecticut* five, *New York* six, *New Jersey* four, *Pennsylvania* eight, *Delaware* one, *Maryland* six, *Virginia* ten, *North Carolina* five, *South Carolina* five, and *Georgia* three.

When vacancies happen in the representation from any state, the executive authority thereof shall issue writs of election to fill such vacancies.

The House of Representatives shall choose their Speaker and other officers, and shall have the sole power of impeachment.

### SECTION 3

The Senate of the United States shall be composed of two senators from each state, chosen by the legislature thereof, for six years; and each senator shall have one vote.

Immediately after they shall be assembled in consequence of the first election, they shall be divided as equally as may be into three classes. The seats of the senators of the first class shall be vacated at the expiration of the second year; of the second class, at the expiration of the fourth year, and of the third class, at the expiration of the sixth year, so that one-third may be chosen every second year; and if vacancies happen by resignation or otherwise during the recess of the legislature of any state, the executive thereof may make temporary appointments until the next meeting of the legislature, which shall then fill such vacancies.

No person shall be a senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state for which he shall be chosen.



The Vice-President of the United States shall be President of the Senate, but shall have no vote, unless they be equally divided.

The Senate shall choose their other officers, and also a President *pro tempore* in the absence of the Vice-President, or when he shall exercise the office of President of the United States.

The Senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation. When the President of the United States is tried, the Chief Justice shall preside: and no person shall be convicted without the concurrence of two-thirds of the members present.

Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust, or profit under the United States; but the party convicted shall, nevertheless, be liable and subject to indictment, trial, judgment, and punishment, according to law.

#### SECTION 4

The times, places and manner of holding elections for senators and representatives shall be prescribed in each state by the legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing senators.

The Congress shall assemble at least once in every year, and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day.

#### SECTION 5

Each house shall be the judge of the elections, returns, and qualifications of its own members, and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner, and under such penalties, as each house may provide.

Each house may determine the rules of its proceedings, punish its members for disorderly behavior, and with the concurrence of two-thirds, expel a member.

Each house shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may in their judgment require secrecy, and the yeas and nays of the members of either house on any question shall, at the desire of one-fifth of those present, be entered on the journal.

Neither house, during the session of Congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting.

### SECTION 6

The senators and representatives shall receive a compensation for their services, to be ascertained by law and paid out of the Treasury of the United States. They shall, in all cases except treason, felony, and breach of the peace, be privileged from arrest during their attendance at the session of their respective houses, and in going to and returning from the same; and for any speech or debate in either house they shall not be questioned in any other place.

No senator or representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased during such time; and no person holding any office under the United States shall be a member of either house during his continuance in office.

### SECTION 7

All bills for raising revenue shall originate in the House of Representatives; but the Senate may propose or concur with amendments as on other bills.

Every bill which shall have passed the House of Representatives and the Senate shall, before it become a law, be presented to the President of the United States; if he approve he shall sign it, but if not he shall return it, with his objections, to that house in which it shall have originated, who shall enter the objections at large on their journal and proceed to reconsider it. If after such reconsideration two thirds of that house shall agree to pass the bill, it shall be sent, together with

the objections, to the other house, by which it shall likewise be reconsidered, and if approved by two-thirds of that house it shall become a law. But in all such cases the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the President within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the Congress by their adjournment prevent its return, in which case it shall not be a law.

Every order, resolution, or vote to which the concurrence of the Senate and House of Representatives may be necessary (except on a question of adjournment) shall be presented to the President of the United States; and before the same shall take effect, shall be approved by him, or being disapproved by him, shall be repassed by two-thirds of the Senate and House of Representatives, according to the rules and limitations prescribed in the case of a bill.

## SECTION 8

The Congress shall have power to lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defense and general welfare of the United States; but all duties, imposts, and excises shall be uniform throughout the United States;

To borrow money on the credit of the United States;

To regulate commerce with foreign nations and among the several states, and with the Indian tribes;

To establish an uniform rule of naturalization, and uniform laws on the subject of bankruptcies throughout the United States;

To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures;

To provide for the punishment of counterfeiting the securities and current coin of the United States;

To establish post-offices and post-roads;

To promote the progress of science and useful arts by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries;

To constitute tribunals inferior to the Supreme Court;

To define and punish piracies and felonies committed on the high seas and offenses against the law of nations;

To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water;

To raise and support armies, but no appropriation of money to that use shall be for a longer term than two years;

To provide and maintain a navy;

To make rules for the government and regulation of the land and naval forces:

To provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions;

To provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the states respectively the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress;

To exercise exclusive legislation in all cases whatsoever over such district (not exceeding ten miles square) as may, by cession of particular states and the acceptance of Congress, become the seat of the Government of the United States, and to exercise like authority over all places purchased by the consent of the legislature of the state in which the same shall be, for the erection of forts, magazines, arsenals, dockyards, and other needful buildings; and

To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof.

## SECTION 9

The migration or importation of such persons as any of the states now existing shall think proper to admit shall not be prohibited by the Congress prior to the year one thousand eight hundred and eight, but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.

The privilege of the writ of *habeas corpus* shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it.

No bill of attainder or *ex post facto* law shall be passed.

No capitation or other direct tax shall be laid, unless in proportion to the census or enumeration hereinbefore directed to be taken.

No tax or duty shall be laid on articles exported from any state.

No preference shall be given by any regulation of commerce or revenue to the ports of one state over those of another; nor shall vessels bound to or from one state be obliged to enter, clear, or pay duties in another.

No money shall be drawn from the Treasury but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.

No title of nobility shall be granted by the United States; and no person holding any office of profit or trust under them shall, without the consent of the Congress, accept of any present, emolument, office, or title, of any kind whatever, from any king, prince, or foreign state.

## SECTION 10

No state shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make anything but gold and silver coin a tender in payment of debts; pass any bill of attainder, *ex post facto* law, or law impairing the obligation of contracts, or grant any title of nobility.

No state shall, without the consent of Congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws; and the net produce of all duties and imposts, laid by any state on imports or exports, shall be for the use of the Treasury of the United States; and all such laws shall be subject to the revision and control of the Congress.

No state shall, without the consent of Congress, lay any duty of tonnage, keep troops or ships of war in time of peace, enter into any agreement or compact with another state or with a foreign power, or engage in war, unless actually invaded or in such imminent danger as will not admit of delay.



## ARTICLE II.

## SECTION 1

The executive power shall be vested in a President of the United States of America. He shall hold his office during the term of four years, and together with the Vice-President, chosen for the same term, be elected as follows:

Each state shall appoint, in such manner as the legislature thereof may direct, a number of electors, equal to the whole number of senators and representatives to which the state may be entitled in the Congress; but no senator or representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

[The electors shall meet in their respective states and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same state with themselves. And they shall make a list of all the persons voted for, and of the number of votes for each; which list they shall sign and certify, and transmit sealed to the seat of government of the United States, directed to the President of the Senate. The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the President, if such number be a majority of the whole number of electors appointed; and if there be more than one who have such majority, and have an equal number of votes, then the House of Representatives shall immediately choose by ballot one of them for President; and if no person have a majority, then from the five highest on the list the said House shall in like manner choose the President. But in choosing the President the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. In every case, after the choice of the President, the person having the greatest number of votes of the electors shall be the Vice-President. But if there should remain two or more who have equal votes, the Senate shall choose from them by ballot the Vice-President.\*]

\*This clause of the Constitution has been amended. See twelfth article of the amendments.

The Congress may determine the time of choosing the electors and the day on which they shall give their votes, which day shall be the same throughout the United States.

No person except a natural-born citizen, or a citizen of the United States at the time of the adoption of this Constitution, shall be eligible to the office of President; neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States.

In case of the removal of the President from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the Vice-President, and the Congress may by law provide for the case of removal, death, resignation, or inability, both of the President and Vice-President, declaring what officer shall then act as President, and such officer shall act accordingly until the disability be removed or a President shall be elected.

The President shall, at stated times, receive for his services a compensation, which shall neither be increased nor diminished during the period for which he may have been elected, and he shall not receive within that period any other emolument from the United States or any of them.

Before he enter on the execution of his office he shall take the following oath or affirmation:

"I do solemnly swear (or affirm) that I will faithfully execute the office of President of the United States, and will to the best of my ability preserve, protect, and defend the Constitution of the United States."

## SECTION 2

The President shall be Commander-in-chief of the Army and Navy of the United States, and of the militia of the several states when called into the actual service of the United States; he may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices, and he shall have power to grant reprieves and pardons for offenses against the United States, except in cases of impeachment.

He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the senators present concur; and he shall nominate, and, by and

with the advice and consent of the Senate, shall appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law; but the Congress may by law vest the appointment of such inferior officers, as they think proper, in the President alone, in the courts of law, or in the heads of departments.

The President shall have power to fill up all vacancies that may happen during the recess of the Senate, by granting commissions which shall expire at the end of their next session.

### SECTION 3

He shall from time to time give to the Congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient; he may, on extraordinary occasions, convene both houses, or either of them, and in case of disagreement between them with respect to the time of adjournment, he may adjourn them to such time as he shall think proper; he shall receive ambassadors and other public ministers; he shall take care that the laws be faithfully executed, and shall commission all the officers of the United States.

### SECTION 4

The President, Vice-President, and all civil officers of the United States shall be removed from office on impeachment for and conviction of treason, bribery, or other high crimes and misdemeanors.

## ARTICLE III.

### SECTION 1

The judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish. The judges, both of the supreme and inferior courts, shall hold their offices during good behavior, and shall, at stated times,

receive for their services a compensation which shall not be diminished during their continuance in office.

## SECTION 2

The judicial power shall extend to all cases, in law and equity, arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority; to all cases affecting ambassadors, other public ministers, and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more states; between a state and citizens of another state; between citizens of different states; between citizens of the same state claiming lands under grants of different states, and between a state or the citizens thereof, and foreign states, citizens, or subjects.

In all cases affecting ambassadors, other public ministers and consuls, and those in which a state shall be a party, the Supreme Court shall have original jurisdiction. In all the other cases before mentioned the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions and under such regulations as the Congress shall make.

The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the state where the said crimes shall have been committed; but when not committed within any state, the trial shall be at such place or places as the Congress may by law have directed.

## SECTION 3

Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

The Congress shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood or forfeiture except during the life of the person attainted.

## ARTICLE IV.

## SECTION 1

Full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every other state. And the Congress may by general laws prescribe the manner in which such acts, records, and proceedings shall be proved, and the effect thereof.

## SECTION 2

The citizens of each state shall be entitled to all privileges and immunities of citizens in the several states.

A person charged in any state with treason, felony, or other crime, who shall flee from justice, and be found in another state, shall, on demand of the executive authority of the state from which he fled, be delivered up, to be removed to the state having jurisdiction of the crime.

No person held to service or labor in one state, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due.

## SECTION 3

New states may be admitted by the Congress into this Union; but no new state shall be formed or erected within the jurisdiction of any other state; nor any state be formed by the junction of two or more states or parts of states, without the consent of the legislatures of the states concerned as well as of the Congress.

The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this Constitution shall be so construed as to prejudice any claims of the United States or of any particular state.

## SECTION 4

The United States shall guarantee to every state in this Union a republican form of government, and shall protect



each of them against invasion, and on application of the legislature, or of the executive (when the legislature cannot be convened), against domestic violence.

## ARTICLE V.

The Congress, whenever two-thirds of both houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the legislatures of two-thirds of the several states, shall call a convention for proposing amendments, which in either case shall be valid to all intents and purposes as part of this Constitution, when ratified by the legislatures of three-fourths of the several states, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the Congress, provided that no amendments which may be made prior to the year one thousand eight hundred and eight shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no state, without its consent, shall be deprived of its equal suffrage in the Senate.

## ARTICLE VI.

All debts contracted and engagements entered into, before the adoption of this Constitution, shall be as valid against the United States under this Constitution as under the Confederation.

This Constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the Constitution or laws of any state to the contrary notwithstanding.

The senators and representatives before mentioned, and the members of the several state legislatures, and all executive and judicial officers both of the United States and of the several states, shall be bound by oath or affirmation to support this Constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States.

## ARTICLE VII.

The ratification of the conventions of nine states shall be sufficient for the establishment of this Constitution between the states so ratifying the same.

Done in convention by the unanimous consent of the states present, the seventeenth day of September, in the year of our Lord one thousand seven hundred and eighty-seven, and of the independence of the United States of America the twelfth. In witness whereof, we have hereunto subscribed our names.

George Washington, President, and Deputy from VIRGINIA.

NEW HAMPSHIRE — John Langdon, Nicholas Gilman.

MASSACHUSETTS — Nathaniel Gorham, Rufus King.

CONNECTICUT — William Samuel Johnson, Roger Sherman.

NEW YORK — Alexander Hamilton.

NEW JERSEY — William Livingston, David Brearly, William Patterson, Jonathan Dayton.

PENNSYLVANIA — Benjamin Franklin, Thomas Mifflin, Robert Morris, George Clymer, Thomas Fitzsimons, Jared Ingersoll, James Wilson, Gouverneur Morris.

DELAWARE — George Read, Gunning Bedford, Jr., John Dickinson, Richard Bassett, Jacob Broom.

MARYLAND — James McHenry, Daniel of St. Thomas Jenifer, Daniel Carroll.

VIRGINIA — John Blair, James Madison, Jr.

NORTH CAROLINA — William Blount, Richard Dobbs Spaight, Hugh Williamson.

SOUTH CAROLINA — John Rutledge, Charles Cotesworth Pinckney, Charles Pinckney, Pierce Butler.

GEORGIA — William Few, Abraham Baldwin.

Attest: William Jackson, *Secretary*

## AMENDMENTS

## ARTICLE I.

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

## ARTICLE II.

A well-regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed.

## ARTICLE III.

No soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war, but in a manner to be prescribed by law.

## ARTICLE IV.

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures shall not be violated, and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the person or things to be seized.

## ARTICLE V.

No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor

shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.

## ARTICLE VI.

In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

## ARTICLE VII.

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise re-examined in any court of the United States, than according to the rules of the common law.

## ARTICLE VIII.

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

## ARTICLE IX.

The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people.

## ARTICLE X.

The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively or to the people.

## ARTICLE XI.

The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by citizens of another state, or by citizens or subjects of any foreign state.

## ARTICLE XII.

The electors shall meet in their respective states and vote by ballot for President and Vice-President, one of whom, at least, shall not be an inhabitant of the same state with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President, and they shall make distinct lists of all persons voted for as President and of all persons voted for as Vice-President, and of the number of votes for each; which lists they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the President of the Senate. The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted. The person having the greatest number of votes for President shall be the President, if such number be a majority of the whole number of electors appointed; and if no person have such majority, then from the persons having the highest numbers not exceeding three on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But in choosing the President the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. And if the House of Representatives shall not choose a President whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice-President shall act as President, as in the case of the death or other constitutional disability of the President.

The person having the greatest number of votes as Vice-President shall be the Vice-President, if such number be a majority of the whole number of electors appointed; and if



no person have a majority, then from the two highest numbers on the list the Senate shall choose the Vice-President; a quorum for the purpose shall consist of two-thirds of the whole number of senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of President shall be eligible to that of Vice-President of the United States.

## ARTICLE XIII.

### SECTION 1

Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States or any place subject to their jurisdiction.

### SECTION 2

Congress shall have power to enforce this article by appropriate legislation.

## ARTICLE XIV.

### SECTION 1

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

### SECTION 2

Representatives shall be apportioned among the several states according to their respective numbers, counting the whole number of persons in each state, excluding Indians

not taxed. But when the right to vote at any election for the choice of electors for President and Vice-President of the United States, Representatives in Congress, the executive and judicial officers of a state, or the members of the legislature thereof, is denied to any of the male inhabitants of such state, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such state.

### SECTION 3

No person shall be a senator or representative in Congress, or elector of President and Vice-President, or hold any office, civil or military, under the United States or under any state, who, having previously taken an oath as a member of Congress, or as an officer of the United States, or as a member of any state legislature, or as an executive or judicial officer of any state, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may, by a vote of two-thirds of each house, remove such disability.

### SECTION 4

The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any state shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations, and claims shall be held illegal and void.

### SECTION 5

The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

## ARTICLE XV.

## SECTION 1

The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any state on account of race, color, or previous condition of servitude.

## SECTION 2

The Congress shall have power to enforce this article by appropriate legislation.

## ARTICLE XVI.

The Congress shall have power to lay and collect taxes on incomes from whatever source derived, without apportionment among the several states, and without regard to any census or enumeration.

## ARTICLE XVII.

The Senate of the United States shall be composed of two Senators from each state, elected by the people thereof, for six years; and each senator shall have one vote. The electors in each state shall have the qualifications requisite for electors of the most numerous branch of the state legislatures.

When vacancies happen in the representation of any state in the Senate, the executive authority of such state shall issue writs of election to fill such vacancies; Provided, that the legislature of any state may empower the executive thereof to make temporary appointments until the people fill the vacancies by election as the legislature may direct.

This amendment shall not be so construed as to effect the election or term of any senator chosen before it becomes valid as part of the Constitution.

# STATE AND TERRITORIAL STATISTICS

STATES	CAPITALS	Date of Admission or Ratification of U. S. Cons.	Area in Sq. Miles	Popula- tion, 1910
Alabama .....	Montgomery .....	Dec. 14, 1819	51,998	2,138,093
Arizona .....	Phoenix .....	Feb. 14, 1912	113,956	204,354
Arkansas .....	Little Rock .....	June 15, 1836	53,335	1,574,449
California .....	Sacramento .....	Sept. 9, 1850	158,297	2,377,549
Colorado .....	Denver .....	Aug. 1, 1876	103,948	799,024
Connecticut .....	Hartford .....	Jan. 9, 1788	4,965	1,114,756
Delaware .....	Dover .....	Dec. 7, 1787	2,370	202,322
Florida .....	Tallahassee .....	March 3, 1845	58,666	752,619
Georgia .....	Atlanta .....	Jan. 2, 1788	59,265	2,609,121
Idaho .....	Boise .....	July 3, 1890	84,313	325,594
Illinois .....	Springfield .....	Dec. 3, 1818	56,665	5,638,591
Indiana .....	Indianapolis .....	Dec. 11, 1816	36,354	2,700,876
Iowa .....	Des Moines .....	Dec. 28, 1846	56,147	2,224,771
Kansas .....	Topeka .....	Jan. 29, 1861	82,158	1,690,949
Kentucky .....	Frankfort .....	June 1, 1792	40,598	2,289,905
Louisiana .....	Baton Rouge .....	April 30, 1812	48,506	1,656,388
Maine .....	Augusta .....	March 15, 1820	33,040	742,371
Maryland .....	Annapolis .....	April 28, 1788	12,327	1,295,346
Massachusetts .....	Boston .....	Feb. 7, 1788	8,266	3,366,416
Michigan .....	Lansing .....	Jan. 26, 1837	57,980	2,810,173
Minnesota .....	St. Paul .....	May 11, 1858	84,682	2,075,708
Mississippi .....	Jackson .....	Dec. 10, 1817	46,865	1,797,114
Missouri .....	Jefferson City .....	Aug. 10, 1821	69,420	3,293,335
Montana .....	Helena .....	Nov. 8, 1889	146,572	376,053
Nebraska .....	Lincoln .....	March 1, 1867	77,520	1,192,214
Nevada .....	Carson City .....	Oct. 31, 1864	110,690	81,875
New Hampshire .....	Concord .....	June 21, 1788	9,341	430,572
New Jersey .....	Trenton .....	Dec. 18, 1787	8,224	2,537,167
New Mexico .....	Santa Fe .....	Jan. 6, 1912	122,634	327,301
New York .....	Albany .....	July 26, 1788	49,204	9,113,614
North Carolina .....	Raleigh .....	Nov. 21, 1789	52,426	2,206,287
North Dakota .....	Bismarck .....	Nov. 2, 1889	70,837	577,056
Ohio .....	Columbus .....	Feb. 19, 1803	41,040	4,767,121
Oklahoma .....	Oklahoma .....	Nov. 16, 1907	70,057	1,657,155
Oregon .....	Salem .....	Feb. 14, 1859	96,699	672,765
Pennsylvania .....	Harrisburg .....	Dec. 12, 1787	45,126	7,665,111
Rhode Island .....	Providence .....	May 29, 1790	1,248	542,610
South Carolina .....	Columbia .....	May 23, 1788	30,989	1,515,400
South Dakota .....	Pierre .....	Nov. 2, 1889	77,615	583,888
Tennessee .....	Nashville .....	June 1, 1796	42,022	2,184,789
Texas .....	Austin .....	Dec. 29, 1845	265,896	3,896,542
Utah .....	Salt Lake City .....	Jan. 4, 1896	84,990	373,351
Vermont .....	Montpelier .....	March 4, 1791	9,564	355,956
Virginia .....	Richmond .....	June 25, 1788	42,627	2,061,612
Washington .....	Olympia .....	Nov. 11, 1889	69,127	1,141,990
West Virginia .....	Charleston .....	June 20, 1863	24,170	1,221,119
Wisconsin .....	Madison .....	May 29, 1848	56,066	2,333,860
Wyoming .....	Cheyenne .....	July 10, 1890	97,914	145,965
TERRITORIES		Date of Organization		
Alaska .....	Juneau .....	July 27, 1868	590,884	64,356
Dist. of Columbia .....	Washington .....	March 30, 1791	70	331,069
Hawaii .....	Honolulu .....	April 30, 1900	6,449	191,909
			3,624,122	92,228,531
COLONIAL POSSESSIONS		Date of Acquisition		
Porto Rico .....	San Juan .....	Dec. 10, 1898	3,435	1,118,012
Philippine Islands .....	Manila .....	Dec. 10, 1898	115,026	7,635,426
Tutulla, etc. ....	.....	Dec. 2, 1899	77	6,100
Guam .....	.....	Dec. 10, 1898	210	9,000
Pana. Canal Zone .....	.....	Feb. 26, 1904	436	50,000
In U.S. Service abroad .....		.....	.....	55,608
United States ...	Washington .....	.....	3,743,306	101,102,677

# REPRESENTATION OF THE STATES IN CONGRESS AND IN THE ELECTORAL COLLEGE

STATES	Senate	House Representatives	Electoral Vote
Alabama .....	2	10	12
Arizona .....	2	1	3
Arkansas .....	2	7	9
California .....	2	11	13
Colorado .....	2	4	6
Connecticut .....	2	5	7
Delaware .....	2	1	3
Florida .....	2	4	6
Georgia .....	2	12	14
Idaho .....	2	2	4
Illinois .....	2	27	29
Indiana .....	2	13	15
Iowa .....	2	11	13
Kansas .....	2	8	10
Kentucky .....	2	11	13
Louisiana .....	2	8	10
Maine .....	2	4	6
Maryland .....	2	6	8
Massachusetts .....	2	16	18
Michigan .....	2	13	15
Minnesota .....	2	10	12
Mississippi .....	2	8	10
Missouri .....	2	16	18
Montana .....	2	2	4
Nebraska .....	2	6	8
Nevada .....	2	1	3
New Hampshire .....	2	2	4
New Jersey .....	2	12	14
New Mexico .....	2	1	3
New York .....	2	43	45
North Carolina .....	2	10	12
North Dakota .....	2	3	5
Ohio .....	2	22	24
Oklahoma .....	2	8	10
Oregon .....	2	3	5
Pennsylvania .....	2	36	38
Rhode Island .....	2	3	5
South Carolina .....	2	7	9
South Dakota .....	2	3	5
Tennessee .....	2	10	12
Texas .....	2	18	20
Utah .....	2	2	4
Vermont .....	2	2	4
Virginia .....	2	10	12
Washington .....	2	5	7
West Virginia .....	2	6	8
Wisconsin .....	2	11	13
Wyoming .....	2	1	3
Total .....	96	435	531

Total—63rd Congress—Commencing March 4, 1913—Senators, 96; Representatives, 435; Territorial Delegates—Alaska, 1, Hawaii, 1; Resident Commissioners—Philippine Islands, 2, Porto Rico, 1.



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